The Incorporated Accountants' Journal

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The Society of Incorporated Accountants and Auditors

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Contents.

Professional Notes.

THE proceedings at the Ottawa Imperial Conference are occupying the attention of thinking people. It is to be earnestly hoped that the result of this great Conference will redound to the unity, advancement and happiness of all British citizens throughout the world.

The outstanding feature of the past month has been the offer to holders of 5 per cent. War Stock of conversion into a similar stock bearing interest at 3½ per cent., redeemable on or after December 1st, 1952. Exact figures are not available of the total converted, but there can be no doubt that the scheme has been highly successful, and this fact in itself has gone a long way to dispel the lack of confidence which has been one of the chief factors delaying the revival of trade.

Doubt was expressed at first as to whether the bonus of 1 per cent. was to be treated as capital or income in the hands of trustees. It is clear, however, from sect. 15 of the Finance (No. 2) Act, 1931, that it belongs to the person entitled to the income of the holding on the day when the bonus became payable, and this has been confirmed by Lord Hailsham, who also pointed out that the bonus was not liable either to income tax or to sur tax. Incidentally it may be observed that the interest will be exempt from United Kingdom income tax in the hands of non-resident persons in the same manner as the interest on the 5 per cent. stock, but the new stock will not be available for surrender in satisfaction of death duties. As before, the interest will be paid without deduction of income tax, and in reply to a question in Parliament the Financial Secretary to the Treasury stated that for the year 1933-34, holders will be assessable on the basis of the interest received during that year, and not by reference to the income received at the rate of 5 per cent. in the preceding year.

The Report of the London Chamber of Commerce on the expenses of litigation (referred to in our issues of December, 1930, and July, 1931), which was presented to the Lord Chancellor, has been under the consideration of His Majesty's Judges, the Bar Council and the Law Society. Following the New Procedure Rules, based to some extent on the Report, the General Council of the Bar has agreed to a modification of the two-thirds rule, so that in cases where the leader's fee exceeds 150 guineas, the amount by which the junior's fee exceeds 100 guineas can be made a matter of arrangement.

At the annual meeting of the Law Society, the retiring President, Mr. P. H. Martineau, announced that, as a result of a conference with

the Lord Chancellor, it had been agreed that the percentage of 33⅓ per cent. added to litigation costs since the war should be reduced to 25 per cent., and that the amount added to costs of non-contentious business should be reduced to 20 per cent. Although some criticism was expressed in regard to the action of the Council, the general approval of the course taken met with almost unanimous acceptance by the members of the Society present.

The Report of the Chief Registrar of Friendly Societies for the year 1931 has just been issued. It appears that twenty-four Public Auditors died during the year and nine resigned. Two were removed from the list for failing to render a return of audits, four as a result of inefficient audits, nine on ceasing to practise, one on ceasing to practise in the district for which he was appointed, fourteen on the ground that no audits had been conducted for several years, and one for failing to reply to correspondence. The number of auditors included in the list for 1932 was 1,183. The number of auditors actually employed by Societies in 1931 was 1,070, with an average number of audits per auditor so employed of 6.8. The total fees charged amounted to £129,128.

The number of applications for appointment as auditors received during the year was 176. In 24 cases the applications were not proceeded with; in 38 cases the applicants had not the necessary qualification for appointment; in 27 they had not been in practice with the requisite qualification for a sufficient period, and in nine they were the partners of public auditors having only a small number of audits. In the remaining cases the applicants were recommended for appointment, or their names were noted for consideration when suitable vacancies arise.

An interesting statement appears in the Report in regard to defalcations on the part of the secretary of a loan society. After pressure by the Registrar for a return for the year 1930 the secretary was suspended. The new secretary then called at the offices of the Registrar and explained the continued delay in furnishing the return as due to the neglected state of the books. In the course of the interview it was observed that although the filed returns of the Society were audited by lay auditors, the printed accounts bore on the front page the name of a firm of qualified accountants described as "Accountants to the Society." Their names also appeared at the foot of the balance sheet, though not as signatories to the audit certificate.

The Registrar accordingly insisted that on this occasion the return should be signed by the accountants as auditors, and that it should be submitted without further delay. It subsequently appeared that the accountants had merely drawn up the printed balance sheet from the four quarterly summaries of accounts, and had not undertaken any audit of the Society's books. When the books were placed in the hands of the accountants they very soon decided that there was probably a cash deficiency, but that to establish the amount it would be necessary to make a complete examination of all the members' passbooks. Eventually a return was submitted with a special report in which the auditors (whose investigations had still not been completed) estimated the total deficiency to be £5,500. Subsequently charges were preferred against the late secretary in respect of various small sums at the Westminster Police Court, and he was sentenced to twelve months imprisonment with hard labour.

A rather curious point arose recently in connection with the amounts payable by the Broken Hill Proprietary Company, as interest on or in redemption of its "B" debentures as in both cases the amounts were payable in Australia "or in London." In view of the fact that £100 in sterling currency was equivalent to £125 in Australian currency, a number of debenture holders had transmitted their debentures to London in the hope of obtaining the benefit of the difference in exchange, and a summons was taken out to determine whether the company was liable to pay in Australian currency or in sterling. In the latter event the sinking fund arrangements would be entirely upset. The case came before Mr. Justice Maugham, who held that debenture holders demanding payment in London were entitled to payment in sterling, even though this might have the effect of rendering the sinking fund wholly inadequate.

The recent case of *Osler* v. *Hall & Co.* reveals a limitation of the right of the Inland Revenue Authorities in certain circumstances to raise additional assessments to Income Tax for the penultimate year, when a business has been discontinued. One member of a firm consisting of three partners retired in March, 1929, and a new partner was admitted. The new partnership continued for about twelve months and then another partner was admitted. Notice was given in the latter case, but not in the former, to have the partnership treated as a new business under sect. 32 of the Finance Act, 1926. The Inland

Revenue Authorities sought to make an additional assessment upon the earlier of the new firms for the year 1928-29 under sect. 31 (1) (*b*), but Mr. Justice Finlay held that an *additional* assessment could not be made upon them as they had never been "charged" for the year 1928-29, the original firm only having been charged for that year.

Are expenses incurred in connection with a successful appeal to the Special Commissioners allowable as a deduction for Income Tax purposes? This was the point at issue in another case which came before Mr. Justice Finlay recently (*Allen* v. *Farquharson Bros. & Co.*). The respondents had appealed to the Special Commissioners on a question of "succession," the result being that the tax payable by them was materially reduced. For the purpose of the appeal they had employed counsel and solicitors, with the result that they had incurred expenses amounting to £100, and they claimed this sum as a deduction from their assessable profits. In order to succeed they had to show that the expenditure fell within either paragraph (*a*) or paragraph (*e*) of Rule 3 of Cases I and II of Schedule D.

When the case came before the Commissioners it was held that the expenditure came within these provisions, and the Crown appealed. In the course of his judgment his Lordship pointed out that it had already been decided in previous cases that it was not sufficient that the disbursements should arise out of or be incurred in connection with the trade or business, but must be expended in earning the profits. While there was some difficulty in applying this principle and in drawing the line in certain circumstances, he considered that the expenditure in this case was an application of the profits after they had been earned, and was not incurred in earning the profits. The appeal was accordingly allowed.

The question of the extent to which restrictive covenants in service agreements can be enforced arose recently in the case of *Vincents of Reading* v. *Fogden*. The defendant, upon his engagement as a salesman by the plaintiffs, who were motor-car dealers, entered into an agreement which included *inter alia* an undertaking in very wide terms not to be connected in any way with any similar business within a radius of fifteen miles for three years after the termination of the agreement. Upon leaving the plaintiffs' service, the defendant was employed in a similar capacity by a firm carrying on a business of the same character within the prescribed area, and the plaintiffs brought this action claiming damages and an injunction. For the defence it was maintained that the restriction was in restraint of trade and void.

In the course of his judgment, Mr. Justice Humphreys enunciated the following principles, which emerged from the decided cases on the subject:—

(1) A person seeking to enforce an agreement such as this must show that it went no farther than was reasonably necessary for the protection of his business; and

(2) The employer must not take from the employee a covenant which protected the employer, after the employment had ceased, from the competition of his former servant.

Applying these principles, his Lordship considered that, having regard to the nature of the business and of the employment, and to the fact that no information of a confidential character was obtained by the employee, the restriction in the present case was not necessary for the protection of the plaintiffs' business and could not be enforced; also that the restrictive clause could not be severed to enable the unobjectionable portions to be enforced, as this would involve the making of a new contract.

It will be remembered that the House of Lords decided in the case of *Re Cockell; Attorney-General* v. *Jackson* (reported in the March issue of the *Incorporated Accountants' Journal*) that an executrix could not exercise her right of retainer in priority to the Crown's preferential claim for Income Tax—that is for an amount not exceeding in the whole one year's assessment. In consequence it became necessary to determine the further question whether the Crown could exercise its discretion as to which year's tax was to be treated as preferential or whether it was limited to claiming the tax assessed but unpaid for the year to April 5th preceding the testator's death. The point came before Mr. Justice Bennett recently, who, considering himself bound by the decision in the case of *Gowers* v. *Walker*, decided that the preferential claim of the Crown could be made for the assessed taxes for any one year. We hope to deal with this case more fully in our next issue.

An important decision with regard to life assurances was given recently by Mr. Justice Eve in the case of *Cousins* v. *Sun Life Assurance Society*. About twenty years ago, the plaintiff took out two policies on his own life with the society, which were expressed to be for the benefit

of his wife under the provisions of the Married Women's Property Act, 1882. On the death of the wife, her executors claimed that the beneficial interest in the policies was vested in them, but the plaintiff maintained that it was vested in him, and that he was entitled to surrender the policies and retain the proceeds.

His Lordship decided in favour of the plaintiff. In the course of his judgment he pointed out that while by virtue of the Married Women's Property Act the policies did not form part of the husband's estate so long as the wife lived, her interest was contingent upon her surviving him, and upon her death the Act ceased to operate, with the result that the interest in the policies reverted to the husband. The only case which did not appear to be consistent with this view was that of *Prescott* v. *Prescott*, but there the policy moneys vested absolutely as soon as the policies were effected, whereas in the present case the interest was only contingent.

In the case of *Greenwood* v. *Martin's Bank Limited*, which came before the House of Lords recently, an interesting decision was given based upon the doctrine of estoppel. A number of cheques were drawn by the appellant's wife on his account with the bank, the husband's signature in each case being a forgery. The facts came to the notice of the appellant, but he took no action until after his wife's death about nine months later. He then informed the bank of the forgeries. The contention of the appellant was that the bank were not deprived of their remedies by his silence, but that the loss arose from their own negligence. Their Lordships refused to accept this view, and held that there was a duty on the part of the appellant to disclose the forgeries. As he had not done so when they came to his knowledge, his silence gave rise to an estoppel and prevented him from recovering.

INTERMEDDLING WITH AN ESTATE.

THERE are three classes of persons who may purport to administer the estate of a deceased person. The personal representative who in due course takes out a grant has, of course, full rights to deal with all the assets. There is also the person who without authority from the deceased or the Court for good or bad motives intermeddles with the estate and becomes known as an executor *de son tort*. Lastly, there is the executor who on death intermeddles with the estate and then fails to take out a grant of probate.

By sect. 28 of the Administration of Estates Act, 1925, if any person without full valuable consideration, obtains, receives or holds any real or personal estate of a deceased person or effects the release of any debt or liability due to the estate of the deceased, he shall be charged as executor in his own wrong to the extent of the real and personal estate received or coming to his hands, or the debt or liability released, after deducting (*a*) any debt for valuable consideration and without fraud due to him from the deceased person at the time of his death, and (*b*) any payment made by him which might properly be made by a personal representative. "Personal representative" is defined by sect. 55 to mean the executor, original or by representation, or administrator for the time being of a deceased person, and as regards any liability for the payment of death duties includes any person who takes possession of or intermeddles with the property of a deceased person without the authority of the personal representatives or the Court.

The term executor *de son tort* (which applies to a case of intestacy as in the case of testacy) means one who takes upon himself the office and duty of an executor or intermeddles with the goods of a deceased person without having been appointed executor or without having obtained a grant of administration from the Court. Slight acts of interference with the goods of a deceased person will make a person an executor *de son tort* if he interferes in such a way as to denote an assumption of authority, or an intention to exercise the functions of an executor. If a testator dies possessed of a lease for a term of years, the term vests in the executor by operation of law, but he cannot be sued personally on the covenants contained therein. If he enters and takes possession and enjoys the beneficial occupation of the term, the entry, coupled with the legal title as executor, places him in the position of an actual assignee of the term and renders him liable on the covenants by privity of estate just as fully as if the term had been assigned to him *inter vivos* by the original lessee. But an executor *de son tort* has no title to the term. If he intermeddles he becomes subject to the liabilities that an ordinary executor is subject to in respect of the assets with which he has intermeddled, but he has none of the privileges or benefits of the ordinary executor and does not by operation of law or otherwise become entitled to the term of years which has never been assigned to him.

A person who appropriates a reasonable sum for the funeral of the deceased, or places his goods in a place of safety, or incurs liability for necessaries for the deceased's household or cattle.

or pays a doctor's account, does not as a rule make himself liable as an executor *de son tort*. Where a person purports to act as an executor and does any lawful acts in the administration of an estate which a rightful executor would have been bound to perform, such acts will bind the estate. An executor *de son tort* is liable to be sued by the rightful representative, a creditor, or a beneficiary, his liability being limited to the amount that has come into his possession. He may, as against the rightful representative, set up in mitigation of damages all payments made by him in due course of administration. He is answerable for the acts of another when authorised by him, and he may be required to render the account, list and statement which it is the duty of an executor to render when an order has been made for the administration of the estate in bankruptcy.

In *New York Breweries* v. *Attorney-General* (1898), upon the death of a testator, a foreign subject domiciled in America, shares and debentures in an English company, of which he was the registered holder in the books of the company in London, passed by his will to his executors in America, according to the law of his domicile. At their request the company paid to them the dividends and interest payable upon the shares and debentures and transferred into their names in the company's books in London two shares and a debenture. The executors to the knowledge of the company had not obtained and did not intend to obtain probate in England. It was held that the company had made themselves executors *de son tort*; that they had taken possession of and administered part of the testator's estate, and were liable to penalties, and to deliver an account and pay such duty as would have been payable if probate had been obtained in England.

Where an executor has intermeddled, he may be compelled to accept the executorship. Without the consent of the Court he is precluded as a rule from renouncing the executorship. He may also be compelled to accept the executorship where his acts are such as would make him an executor *de son tort*, *e.g.*, advertising for debts of the deceased, joining in a power of attorney authorising another executor to recover part of the estate. An executor who intermeddles and fails to take out a grant is in a worse position than an executor *de son tort* in that the latter is only chargeable to the extent of the estate coming to his hands or the liabilities released by him, whereas the former is chargeable for the whole estate. Further, though an executor who has acted can be compelled to take out probate, a person who has intermeddled as executor *de son tort* cannot be compelled to take out letters of administration.

In the recent case of *Re Freeman* (1931) an individual and a bank having been appointed executors and trustees under a will, the individual executor intermeddled technically with the estate, and both of them subsequently refused to act as executor or prove the will. By a codicil the testator directed that in the event of a "vacancy" occurring "in the office of the individual executor and trustee whether from death, resignation, refusal to serve, inability to act, or otherwise," one of two named persons, in the order named, should fill the vacancy. The first-named person renounced and his renunciation was accepted by the Court. It was held that the Court was entitled to appoint one of the substituted executors, and probate was granted to the second named person on his application. This case appears to be an exception to the general rule.

It has been well and aptly said that as a general rule an executor who intermeddles, puts his hand to the plough and cannot turn back until the whole field in question is finished, but an executor *de son tort* can get out of the business by completing the furrow he is engaged on and handing the whole over to a duly constituted personal representative.

LANDLORD'S DISTRAINT ON HIRE-PURCHASE GOODS.

HIRE-PURCHASE trading, once a veritable Cinderella of commerce, now sits enthroned amongst the most exalted. Her power, for good or ill, is immense—as the recent experience of the United States of America has emphasised. The law regulating her conduct is stringent and, in many respects, difficult. For example, the power of a landlord of the premises where goods which are the subject matter of a hire-purchase agreement are housed to defeat, in certain circumstances, the right of the supplier of the goods to resume possession, upon the hirer making default, is extremely important and involved. To arrive at the present position it is necessary to consider the rules of law as they were applied prior to the enactment of the Law of Distress Amendment Act, 1908, and as they have been applied since that measure took effect.

A clear statement of the main rule, and of the exceptions to it, together with the reasons on which they are based, was afforded by Mr. Justice Lush in *Lyons* v. *Elliott* (1876). The broad rule as stated by him is: *Prima facie* all goods found on the premises demised are subject to landlord's distraint. The exemptions from

the wide scope of that rule are of two classes, viz, (*a*) qualified, and (*b*) absolute.

Qualified exemption is given to trade implements—if there is sufficient other property upon the premises to satisfy the distraint. This is granted for the benefit of trade. Absolute exemption is given in cases which arise "in the regular course of business," necessitating special recognition of the circumstances attending the presence of certain goods upon certain premises; for example, where cloth is sent to a tailor, or corn to a miller, or a horse to a farrier. In other words, "where goods are sent to persons exercising a public trade, while they are on the premises in which that public trade is carried on."

The Law of Distress Amendment Act, 1908, as judicially interpreted, has not altered these basic rules. The difficulty is to apply the rules of exemption contained in that statute. Sects. 1 and 2 of the Act were designed to protect, subject to compliance with the conditions therein laid down, goods "of any other person whatsoever not being a tenant of the premises . . . and not having any beneficial interest in any tenancy of the premises . . ." *e.g.*, a lodger. Sect. 4 of the Act goes on to provide that with regard to various classes of goods, specified in the section, the Act shall not apply. Amongst these classes are goods comprised in a hire-purchase agreement. The precise words of that section must be set forth (since their alleged lack of precision has been the cause of much litigation)—at any rate of that portion which is concerned with hire-purchase agreements in the aspect here discussed.

Sub-sect. (1), then, of sect. 4 of the 1908 Act exempts from the scope of the Act certain goods; the protection afforded by sects. 1 and 2 is declared not to be applicable to "goods belonging to the husband or wife of the tenant whose rent is in arrear, nor to goods comprised in any bill of sale, hire-purchase agreement, or settlement made by such tenant, nor to goods in the possession, order, or disposition of such tenant by the consent and permission of the true owner under such circumstances that such tenant is the reputed owner thereof."

This phraseology is, unhappily, ambiguously worded. Thus, in *Shenstone & Co.* v. *Freeman* (1910), the Divisional Court, on appeal from the County Court, held the defendant liable for illegal seizure of a piano. The article had been let to the wife of the tenant on a hire-purchase agreement. By the terms of that agreement, if an instalment was in arrear the plaintiffs, who had let it, were entitled to retake possession of it. An instalment being in arrear, the plaintiffs intended to notify the hirer. By a clerical error the communication was addressed to her husband. The plaintiffs' representative also paid a call at the house and found that the wife was not there. The Court considered that there was no evidence to show that the plaintiffs had by their conduct left the piano in the possession, order or disposition of the husband and consented or allowed it to become his reputed property. The defendant, the landlord's broker, had distrained for arrears of rent. The question thereupon arose: "Was the piano lawfully seized by the broker, or did it enjoy the protection of the Act? It was argued for the defendant that the words, "made by such tenant," as they occur in sect. 4 (1), can refer only to the word "settlement," since "make" applies in correct legal phraseology to a settlement, but does not apply to a "bill of sale" (which is "granted"), nor to a "hire-purchase agreement" (which is "entered into"). Moreover, even if a hire-purchase agreement can be said to be "made" at all, it is "made" by the supplier and not by the hirer.

Mr. Justice Darling admitted that the wording of the section was unsatisfactory, permitting of at least two possible interpretations on its grammatical construction. But, he said, in construing an ambiguously-worded statutory provision one must adopt that construction which will give a reasonable and fair meaning. If the argument for the defendant were to be accepted, an unreasonable construction of the scope and purpose of the legislature would be adopted. A lodger, for example, whom the Act clearly (by sects. 1 and 2) intended to protect, would be in a worse position than he had been in under the earlier statutes, *e.g.*, of 1879. Further, this absurdity would result—that a friend calling upon a tenant whose rent was in arrear would be in peril of having any goods he brought with him distrained for that tenant's default. So, too, a doctor, calling upon the tenant as his patient, might have his motor-car seized if he, the doctor, had obtained that car under a hire-purchase agreement. In this case, the piano was let to the wife; it was the husband who was in arrear with his rent. The piano, therefore, was exempt from seizure.

This view of a transaction of that kind—fairly common as it is now-a-days—was approved by the Court of Appeal in a similar case in 1911, viz, *Rogers, Eungblut & Co.* v. *Martin.*

How long are goods deemed to be "comprised in a hire-purchase agreement"? This question arose in *Jay's Furnishing Company* v. *Brand*

and Co. (1915). There, the tenant of a flat had received from the plaintiffs furniture under a hire-purchase agreement, which provided that it was to be determinable "*ipso facto*" if the hirer failed to perform its terms. The hirer fell into arrear with his instalments, and the plaintiffs went to the flat for the purpose of resuming possession of the goods, as provided for in their agreement. They were unsuccessful. The following day the landlord distrained for arrears of rent. It was held that the landlord's distraint could not be disturbed. The agreement, said the Court, was still subsisting at the time when the landlord effected distraint. Granted that the hire-purchase agreement had been determined by the plaintiffs so far as the demise was concerned, it was still in existence so far as their right to retake possession of the goods was concerned. If the agreement had been wholly at an end the plaintiffs could not have retaken possession at all, for their right to retake possession depended upon, and was an essential part of, the agreement. The goods, therefore, were still goods "comprised in a hire-purchase agreement." It followed, therefore, that the goods were within the scope of sect. 4 (1), and therefore not within the scope and protection of sects. 1 and 2 of the Act.

How far the custom of a particular trade, *e.g.*, in the theatre world, can be judicially noticed, and how far the doctrine of reputed ownership applies where a piano is lent—for advertisement purposes—by a manufacturer to a theatrical producer, and how far such a piano may be presumed to be outside the scope of a hire-purchase agreement, raised intricate questions in *Chappell & Co., Limited*, v. *Harrison* (1910). The case is interesting as showing the advance which, even at that date, hire-purchase trading had made. The decision there was that the piano was not exempt from distress levied by the superior landlord of a theatre rented by a theatrical producer who had borrowed it from the plaintiffs for use in a specified production.

These cases should serve as a caution to hire-purchase traders to see to it that their form of agreement includes a power to resume possession if the landlord levies distress, and to act promptly under it.

"The Judicial Wisdom of Mr. Justice McCardie" is the title of a work edited by Mr. Albert Crew, Barrister-at-Law, and recently published by Messrs. Ivor Nicholson & Watson, Limited. As pointed out in the prospectus, Mr. Justice McCardie is well known the world over as a Judge who deals with legal problems affecting every man and every woman in a human and interesting way.

Society of Incorporated Accountants and Auditors.

COUNCIL MEETING.

A meeting of the Council was held in Incorporated Accountants' Hall on July 15th, when there were present: Mr. E. Cassleton Elliott (President) in the chair; Mr. R. Wilson Bartlett, J.P. (Newport, Mon.), Vice-President; Mr. Henry J. Burgess (London), Mr. R. M. Branson (Leicester), Mr. D. E. Campbell (Wolverhampton), Mr. W. Allison Davies, O.B.E. (Preston), Mr. Frederick Holliday (Leeds), Mr. Walter Holman (London), Mr. Thomas Keens, D.L. (Luton), Mr. Edmund Lund, M.B.E. (Carlisle), Sir James Martin, J.P. (London), Mr. Henry Morgan (London), Mr. C. Hewetson Nelson, J.P. (Liverpool), Mr. James Paterson (Greenock), Mr. W. H. Payne (London), Mr. W. Paynter (London), Mr. Arthur E. Piggott (Manchester), Mr. G. S. Pitt (London), Mr. Percy Toothill (Sheffield), Mr. J. Stewart Seggie (Edinburgh), Mr. R. T. Warwick (London), Mr. Richard A. Witty (London), Mr. E. W. C. Whittaker, J.P. (Southampton), Mr. A. E. Woodington (London), Mr. Frederic Walmsley, J.P. (Manchester), Mr. A. A. Garrett, M.A., B.Sc., F.C.I.S. (Secretary), Mr. E. E. Edwards, B.A., LL.B. (Parliamentary Secretary), and Mr. J. R. W. Alexander, M.A., LL.B. (Standing Counsel). Apologies for non-attendance were received from Mr. E. T. Kerr (Birmingham), Mr. Alan Standing (Liverpool), Mr. A. H. Walkey (Dublin), and Mr. F. Woolley, J.P. (Southampton).

DEATHS.

The Secretary reported the death of the following members:—Mr. George Anderson (Fellow), London; Mr. William Thomas Archer (Associate), Northampton; Mr. Alfred Brown (Associate), Yeadon, Yorks; Mr. Samuel James Drury (Associate), Oswestry; Mr. Richard Ernest Griggs (Fellow), New York; Mr. Frank Harrison (Associate), Wolverhampton; Mr. John William Archer Hirst (Fellow), Manchester; Mr. Charles Edward Lewis (Associate), Rochdale; Mr. Joseph Henry Scott (Associate), Southport; Mr. Thomas Mylne Scott (Associate), Menton, France; Mr. Robert Gordon Alexander Temple (Associate), London; Mr. Herbert Wilde (Associate), Manchester.

PRESENTATION TO THE PRESIDENT.

On behalf of the Council, Mr. Frederic Walmsley, Senior Past President, presented to Mr. E. Cassleton Elliott, the President, his portrait in oils executed by Mr. John A. A. Berrie, R.C.A. The President expressed his thanks for the presentation, and the Council accepted the portrait to be hung in the hall.

PROFESSIONAL EDUCATION.

Arising from a report of a Conference of Representatives of Branches and District Societies, a number of questions relating to educational facilities for students were discussed.

A report was received of the resignation of Sir Harry Hands, K.B.E., as Chairman of the South African (Western) Branch, Cape Town; also that a message by cable had been despatched to Cape Town in connection with a function given in his honour.

The Council received intimation of the appointment of Mr. Cyril D. Gibson, F.S.A.A., as Chairman in succession to Sir Harry Hands, and of Mr. Hugh Hyslop, A.S.A.A., as Hon. Secretary.

An invitation was received from the Dominion Association of Chartered Accountants for representatives of the Society to be present at the annual meeting of that Association to be held in New Brunswick in August next. The Council, in acknowledging the courtesy of the

invitation, expressed regret that it was not possible for representatives of the Society to be present this year.

Mr. Percy Toothill, Sheffield, asked the Council to accept, for use at Incorporated Accountants' Hall, two sets of silver articles. The President expressed the thanks of the Council to Mr. Toothill for his kind and useful gifts.

Society's South African (Western) Branch.

Dinner and Presentation to Sir Harry Hands.

On June 28th a most successful function, which took the form of a dinner, was held at the Hotel Assembly, Cape Town, arranged for the purpose of giving all members of the Society in the Western District an opportunity to say farewell to Sir Harry Hands, K.B.E., J.P., F.S.A.A., upon his retirement from the Chairmanship of the Western Committee, an office he had filled for the past twelve years. Thirty-nine members sat down to table, and a pleasing feature was that this number included several of those recently qualified, together with those with many years of membership behind them.

After the loyal toast, the newly elected Chairman, Mr. C. D. Gibson, F.S.A.A., read cables received from the President, Council and Secretary in London, conveying their appreciation of Sir Harry Hands' service in the past and their best wishes for the future.

The Chairman, in the course of his speech, dwelt upon some of the activities of their late Chairman and guest, apart from Society matters, amongst which he mentioned that Sir Harry Hands had occupied the mayoral chair of the City of Cape Town during the period of the late war, and for his valuable services he received the honour of Knighthood.

Upon his activities definitely connected with the Society, the Chairman said that they were so well known and appreciated that it was hardly necessary to racapitulate them. His personal efforts in connection with the Incorporated Accountants' Benevolent Fund had been so much appreciated in London that the subscribers had paid him the signal honour of appointing him a Vice-President of the Fund. In the present negotiations with the sister South African Societies, which it was hoped would result beneficially for the whole profession in South Africa, Sir Harry Hands had taken a leading part, as well as in all other matters affecting accountancy and professional accountants. Before calling upon Mr. Philip Salisbury, the senior member by examination in South Africa, to present the gift subscribed for by the members of the Western Branch and the Council in London, as a token of their esteem, the Chairman said that he would like to pay a personal tribute to Sir Harry Hands for all the assistance and advice afforded him during the years he had held the office of Honorary Secretary, and he felt quite sure that although he had resigned from the Chair, his advice and interest would still be available.

Mr. Philip Salisbury, F.S.A.A., said that he felt it a privilege to be asked to make the presentation to Sir Harry Hands on behalf of the members of the Council in London and all the members there. He, himself, was the oldest member by examination in South Africa, and thus he had had every opportunity of watching the progress of the Society, and he spoke in warm terms of the late Chairman's efforts in the furtherance of the interests, not only of the Society, but of the profession as a whole. In making the presentation, which consisted of a solid silver tray, suitably engraved, he conveyed, on behalf of the members, their grateful thanks for all Sir Harry Hands' work in the past and their best wishes for the future. The health of the late Chairman was then drunk with musical honours.

Sir Harry Hands, in reply, thanked all those who had gathered together to meet him, and also those unable to be present, for all their good wishes and for the gift they had made, which would be treasured by him as a constant reminder of his years as Chairman of the Western Committee. He said that he was practising in Cape Town before the formation of the Society in South Africa, in fact before the profession had any status whatever, and he had seen it go on from strength to strength. He was particularly pleased to see so many of the younger members present, and urged them to take a keen interest in their Society and all professional matters, for it would be with them that future progress would lie. He said that all his efforts in the past had been a real pleasure, and that although he was no longer Chairman he would still take a keen interest in the Society and assist them in any way he could. In conclusion he paid a personal tribute to the newly elected Chairman, eulogised his work as Honorary Secretary for so many years, and wished him all good luck in the future.

Mr. James Douglas, O.B.E., F.S.A.A., in proposing the health of the Chairman, said that he was sure all those present would join with him in congratulating Mr. C. D. Gibson on his appointment, a fitting honour for all his efforts in the past. He appealed for the support of each one, and suggested that gatherings of that nature were an excellent means of making members known to one another, and that meetings upon those lines to discuss professional interests would be beneficial to all.

An excellent musical programme was enjoyed by all, and the proceedings closed with a vote of thanks to the Committee responsible for the arrangements.

Executorship Accounts.

A LECTURE delivered to the Glasgow Students' Society by

MR. J. STEWART SEGGIE, F.S.A.A., C.A.
(President, Scottish Branch of the Society of Incorporated Accountants and Auditors.)

MR. SEGGIE said: At the outset let me say how delighted I am to have this opportunity of meeting the members of the Students' Society in Glasgow. When I gave Mr. Paterson a note of different subjects I might address you on, he picked on "Executorship Accounts" as being the most interesting from your point of view, and also informed me that the trouble with students seemed partly on questions of apportionment and partly on the question of whether the students should adopt the Scottish form of Account Charge and Discharge or the English Cash Account method. Now I had the honour, some ten years ago, of writing for an educational series a small text book on Executorship and Trust Accounts, in which I dealt with the different methods of setting out the accounts of executors and trustees.

Let me, then, briefly set out a few general points and principles to begin with. I shall leave sufficient time for discussion on details after my remarks are finished.

I. GENERAL.

The deed by which executors and trustees are appointed is termed a "Will," "Last Will and Testament," or "Trust Disposition and Settlement." An executor under a will is sometimes termed executor-nominate to distinguish him from an executor-dative, who is a person appointed by the Court to administer an intestate estate. Generally stated, the distinction between an executor and a trustee is that the former's duty consists in the realisation of the estate and its distribution, while the latter's duty consists in administering the estate in terms of the instructions or directions in the will. A trustee may first act in the capacity of executor by realising the estate and then as trustee by holding it for certain trust purposes. His duties as executor terminate on the realisation of the estate and the payment of debts and legacies, while his duties as trustee begin when he retains the estate and distributes the income in terms of the will, holding the capital for distribution on the termination of the life-rent or on the happening of some other event.

Where a trust is created, the trustee is invariably designated in the deed as executor and trustee.

The Will.

It is always preferable, and invariably saves expense in the long run, to have a will drawn up in proper legal form. Although there is no special form of will prescribed by law, either in England or in Scotland, yet on questions of interpretation regard is had to the intention of the testator as expressed in the will. Expressions used in a will are again interpreted in the light of decisions on the points, and consequently it is of the utmost importance that to avoid unnecessary questions arising, legal advice should invariably be taken in drawing up a will.

Although there is no special form required or prescribed, yet certain essentials are necessary. A will must be in writing, either in testator's own handwriting, when it does not require to be witnessed, or in another's handwriting and signed by the testator, provided the words "adopted as holograph" appear above his signature. In this latter case also no witnesses are required. The will may be typewritten or written and subscribed by two witnesses who must be over fourteen years of age and not interested in the will.

In Scotland a will in the above sense may convey both heritable and moveable property, provided the language is explicit on the point, but in England, immovable property must be conveyed in the will in terms of the Wills Act, 1837, which provides for the will being in writing, signed by the testator or someone in his presence and by his direction. The signature must always be witnessed. Certain exceptions to this rule are made as in the case of serving soldiers and seamen.

Wills are exempt from stamp duty.

It is also to be remembered that wills in Scotland are subject to certain restrictions which do not hold in England. In Scotland the widow and family have certain legal rights in a testate as well as in an intestate succession. The widow's right in the heritable estate is called *terce*, which is a life-rent of one-third of the heritable estate. Her right in the moveable estate is called *jus relictae*, which is one-half of the moveables where there are no children, and one-third where children exist. The children's right is termed *legitim*, and is one-third of the moveable estate. A husband has also legal rights in a deceased wife's estate corresponding to *terce* and *jus relictae* described above. His rights are known as courtesy and *jus relicti*.

A will in Scotland cannot dispossess the widow, husband, or children of their legal rights, and these may be claimed in place of the provisions under the will.

In the case of a person bequeathing his estate for the purpose of payment of his debts and certain legacies and the residue to be given to an institution or some individual, the document may be of a very simple form indeed, but it should contain clauses (1) appointing an executor; (2) authorising the payment of legacies and stating whether these are to be free from legacy duty or otherwise; and (3) disposing of the residue in specific terms. In this case no questions of capital and revenue are involved.

Where, however, an estate is left in life-rent to some individual or institution and the capital to someone else, the greatest care is necessary to bring out in the will the real intention of the testator. Questions of succession arise, such as heirs succeeding to their parent's portion in the event of the death of the parent prior to the testator, and many other involved questions. It cannot, therefore, be too definitely stated that such deeds should be framed by or with the assistance of a member of the legal profession.

A copy of the will should be given to each trustee in the initial stages, which will enable him to appreciate his position and know definitely his actual responsibility. Where one is acting as an agent in a trust, it is always preferable to give the fullest information by way of documents or explanations rather than await questions arising, and the copy of the will itself, if given to the trustees at the commencement of the trust, will facilitate smooth administration in the future.

A copy of the will should also be engrossed in the minute book of the trust, as also the original inventory and confirmation.

A minute of acceptance of the office of trustee should also be obtained and engrossed in the minute book.

Lodging Inventory.

In the case of a person dying testate, the first duty of the executor is to get himself legally vested in the estate. By the will the estate vests in the executor, but legally he cannot sue for recovery of such estate until he has taken out "Probate" as it is called in England, or obtained "Confirmation" in Scotland. Taking out "probate" in England and obtaining "confirmation" in Scotland means that the executor declares the estate left by the deceased, pays the necessary death duties, and obtains from the Court a document

empowering him to legally intromit with the estate and to recover said estate.

The first step in the process of obtaining probate or confirmation is to make out what is termed the "Inventory."

The Inventory.

The inventory is a document detailing the moveable or personal estate and effects of the deceased. It also contains declarations by the executors that the whole estate has been detailed, and that the schedules appended to the inventory are correct.

In the forms which are issued by the Inland Revenue Department are full instructions as to the completion of the various schedules, and as copies of the various forms may be obtained on application to the Inland Revenue Department there is no necessity to submit them to you. Students should make themselves acquainted with the rates of estate duty paid, as I observe from examination papers that you are assumed to have this knowledge.

II. BASIS OR FOUNDATION OF FINAL ACCOUNTS.

In Scotland, as in England, the foundation for the final set of executorship accounts is the cash account of the agent acting for the executors coupled with the details of the estate as given up in the inventory referred to.

In recording cash transactions relative to a trust, it is not advisable to burden the cashier by distinguishing items of capital and revenue, nor should apportionments be made in the cash book. The general cash book is a posting medium to the account in the trust ledger, and it is only when the transactions of the trust are being drawn up that such distinctions and apportionments should be made. If the fullest details are given when the posting takes place, there should be no liability to the distinction or apportionments being ignored.

Let it be assumed that all the cash transactions have been posted to an account in the agents' ledger, then a separate set of accounts can be prepared from this ledger account arranged under some such headings as :—

(1) Realisations of estate.
(2) Income from estate invested.
(3) Bank transactions.
(4) Investments made.
(5) Payments to beneficiaries.
(6) Debts due by deceased paid.
(7) Payments for deathbed and funeral expenses.
(8) Expenses of administration.

If the set of ledger accounts classify the receipts and payments into appropriate heads, an abstract of the totals would be an abstract of the cash transactions only. It would not show whether all the estate left by the deceased had been accounted for, nor yet would it show what estate had still to be realised. Is it necessary, then, in preparing executorship accounts to incorporate the assets and liabilities at date of death in the set of accounts prepared for submission to trustees, executors, or beneficiaries? The general opinion in accounting circles is that the values put upon the assets for estate duty purposes should be adopted as the basis of opening a set of executorship accounts. Accounts are opened for each item of estate of which the deceased died possessed, and the cash realised for such assets is put against the original value, the excess or gain on realisation being brought out in the accounts. Is any practical purpose served by this method? It certainly reveals the differences in amounts realised from what were considered as the values at date of death, and by so revealing the differences may lead to inquiry being made as to the reason for the difference. The ledger accounts would also show any assets or liabilities existing at date of death which had not been realised or paid when the accounts are prepared, and consequently such assets or liabilities would not be lost trace of. On the other hand, it is argued that both these points can be ascertained without ledger accounts being opened. The inventory for estate duty shows the estate at death and the values put upon the items. The cash record shows what has been realised and the differences can be noted. Any unrealised estate can also be arrived at by comparing the realisations with the inventory values. Again, in answer to the second point, it is argued that in these days, when agents for their own satisfaction usually recommend the executors or trustees to have an audit of the intromissions, there is little likelihood of estate being lost sight of, so that the records in ledger account form of assets existing at date of death is not absolutely essential Even under such a system, the ultimate result is to record the cash side of the transaction. For example, if an asset is recorded as worth £1,000 at the date of death and realises £1,200, then under the cash system the only entry would be for the £1,200, but under the other there would first be recorded the asset at £1,000. There would next be recorded the realisation of £1,200, and finally the £200 excess would be added to the original capital of £1,000.

It is further argued that it is inadvisable to incorporate in a set of executorship accounts what does not appear in the agent's ordinary books. Only cash transactions appear therein and consequently only cash transactions should be shown in the main set of accounts for an executry or trust, any other items being put in the form of supplementary statements. So long as a complete check can be made not only of cash transactions, but of estate unrealised, and so long as the set of accounts exhibits the true financial position for the period under review, the method of statement should be such as to be easily understood by the average layman, trustee or beneficiary, and be easily adaptable from the books of the agent, who is not necessarily an accountant. For most concerns a statement of accounts prepared on a cash basis *alone* would not reveal the true position. The same applies to executries and trusts. Income due but not received, and debts incurred but not paid, would affect the true income for the period, so that a record of cash received and paid would not reveal the true position. Assets existing at date of death, but unrealised at the date of the preparation of the executorship accounts, must be exhibited as belonging to the estate.

At present in England there seem to be two main methods of stating executorship accounts.

First Method.—A set of ledger accounts is opened from the details of estate as given up at date of death, all assets being debited to individual accounts, and the total shown in the "Estate Account." Accounts are opened and credited for liabilities as at date of death, and the estate account debited. The balance on the estate or corpus account shows the net value of the estate or the capital as at date of death.

Cash transactions are then posted to those ledger accounts and transfers made to the estate account for any gains or losses on realisation. Finally, from the ledger accounts a balance sheet can be prepared.

Second Method.—Only cash transactions are recorded, and the inventory values or nominal values of estate unrealised are shown in a statement of funds at the date of closing the accounts. A memorandum of estate left by the deceased is kept, and from this would be prepared the statement of unrealised assets. Invariably under this system, no account is taken of income due but not received, and debts incurred but unpaid.

There is much to be said in favour of the latter method when only executorship accounts are being dealt with

as distinct from a trust account. In the first case the transactions resolve themselves into realisations of estate, paying all debts and legacies and finally accounting for the remainder, either by paying over cash or investments. In the case of a trust where investments may be carried forward from year to year, then it will be advisable to keep a permanent record of the whole estate. The life-renter or life-tenant will be able to verify that income has been accounted for on all investments, and the fiar (Scottish term) or remainder-man (English term) can verify the estate said to be held.

In executries, therefore, the cash basis may be adopted where no questions of distinction between capital and revenue are involved.

In submitting a statement of intromissions, the capital realised would be shown and how it is now held, as also a statement of unrealised capital. Assets existing at the date of death and still unrealised will be taken from the inventory, while liabilities due at death and unpaid at the close of the period will be similarly brought into the statement.

The advantage of preparing only a record of the cash and thus distinguishing between realised and unrealised capital is that the beneficiary can see at a glance how much is available and how much is still to come in. The agent is also made cognisant of what he can safely advance to account of capital without having to review the assets, otherwise than the realised part.

This method may not conform to strict accounting theories, but its simplicity in such a case as this will be manifest. It does not necessitate the opening of ledger accounts for every class of asset.

As an alternative to the simple statement of cash receipts and payments, a separate ledger account might be opened, as I have already stated, for every asset at date of death and a capital or corpus account credited with the total. To the debit of this latter account would be placed the liabilities as at the date of death, the balance on the account revealing the net capital at date of death. The actual realisations and payments would appear in the respective individual accounts, and at the end of the period a balance sheet could be prepared.

III. ACCOUNTS CHARGE AND DISCHARGE.

Up to the present I have not referred to the Scottish form of Account Charge and Discharge, for the simple reason that I prefer the record of executry transactions in some such form as I have alluded to, but as in the course of your daily practice and in the examination answers, if you like, you may wish to set out the transactions in that form, let me refer for a few minutes to the Account Charge and Discharge. (Here the Lecturer showed how the estate at death, realisations, &c., were recorded in Accounts Charge and Discharge, and showed the connection between this form and ledger accounts.)

Continuing, he stated that there is no mystery about the Account Charge and Discharge except its antiquity. From the statement given below will be seen the connection between an Account Charge and Discharge and the Ledger Account form. A peculiarity about the Account Charge and Discharge which is not fully realised is that you can abstract the cash transactions as distinct from the revenue transactions, and from "the estate at the end" make up a balance sheet. The annexed statement shows the connection. An Account Charge and Discharge combines the cash account, the revenue account and balance sheet all in one.

	LEDGER ACCOUNTS.									
	Cash.		Investments.		Property.		Deposit Receipts.		Capital.	
	Dr. £	Cr. £	Dr. £	Cr. £	Dr. £	Cr. £	Dr. £	Cr. £	Dr. £	Cr. £
Balances at beginning of Trust ...	100		3,000		5,000					8,100
Investments sold	3,300			3,300						
Profit to Capital			300							300
Placed on deposit Receipt		3,000					3,000			
Balances at end...		400				5,000		3,000	8,400	
	3,400	3,400	3,300	3,300	5,000	5,000	3,000	3,000	8,400	8,400
Balances	400				5,000			3,000		8,400

CHARGE.

	£	£
1. Estate at beginning ...		8,100
2. Estate realised ... 3,300		
Amount at beginning ... 3,000		
		300
		£8,400

DISCHARGE.

1. Investments made—		
Placed on deposit receipt	3,000	
2. Estate at close of trust		8,400
		£8,400

There never seem to have been laid down general principles upon which Accounts Charge and Discharge should be prepared. In one case it may be found that whereas the gross estate is brought into the "charge," the liabilities, if not paid within the period, are never exhibited. In other cases any liabilities outstanding at the close of the period are deducted from the gross estate at the end, and appear on the "discharge" side under appropriate headings. There would appear to be no uniformity in the setting out of such accounts.

Generally speaking, an account charge and discharge should exhibit on the "charge" side :—

First.—Gross value of the estate at the start of the trust.

Second.—All additions to such estate by way of excesses on realisation. Receipts in the nature of investments realised are not extended into the "charge" cash column, as the original value has already been charged under the first head referred to.

Third.—All income whether received or not, provided it has fallen due in the period.

On the "discharge" side should appear :—

First.—All payments made during the period. Debts incurred and unpaid should also be shown and their total deducted from the estate at the close of the period.

Second.—Losses on realisations of estate.

Third.—Estate at the close of the period, *less* liabilities.

It may be necessary in certain cases to bring into the account "accrued" income and expenditure, but as a rule this is never exhibited unless on the death of a life-renter, whose interest to date of death is being exhibited.

While the above summarises generally what should appear in an account charge and discharge, the same results may be exhibited otherwise. The estate at beginning and end of the periods may be shown in separate statements, and only income and expenditure brought into the account. The liabilities may only appear in a statement, and never be through the account charge and discharge at all.

This diversity in practice in setting out an account charge and discharge has given an impression to students and others that such accounts are very complicated,

but if it be kept in view that an account charge and discharge really should exhibit what would appear in a ledger if summarised, and what also appears in the balance sheet, no difficulty in grasping the principles should be experienced.

In grasping the principles upon which an account charge and discharge is prepared, the student is, therefore, recommended to work out or visualise the transactions as they would be entered in the ledger.

There seems no doubt on the question that from most points of view the setting out of trust transactions in ledger form is the most preferable. To accountants and members of the legal profession the account charge and discharge presents no difficulty, but too often the average trustee sets aside the account with a sigh, feeling that, although it seems quite correct, it is beyond his powers to grasp. The auditor's certificate on the accounts satisfies his mind and consequently he really never grasps the effect of the transactions exhibited. While that may be so, it is to be noted that many agents and accountants prefix the actual account with a report and summary, a course which should always be followed where laymen are acting as the trustees.

Where the transactions in a trust involve the keeping of capital and revenue quite distinct as in the case of an estate left in life-rent to some person and in fee to another, the distinction between capital and revenue must always be kept in view. One account charge and discharge setting forth all the transactions with a summary at the end is very common, while in other cases separate accounts for capital and revenue respectively are prepared with a statement of funds, showing how these are held as between capital and revenue.

After reviewing the whole position, I offer the suggestion that the account charge and discharge as such should not be submitted as the accounts of the trust, but that an abstract prepared from ledger accounts should take its place.

Executorship and trust accounts in England are prepared in ledger form, but it does not follow that the ledger accounts should be submitted to the trustees. They can be made available if called for, and only summaries presented.

The Accountant of Court has issued a form of account charge and discharge for judicial factors, and in addition, a current account showing the daily cash balance in hand must be appended. As the Accountant of Court audits the transactions of the judicial factor, he must of necessity have all the details, including a statement of daily balances. At the end of the judicial factory, the accounts charge and discharge are summarised by him for his report to the Court on the application for the discharge of the judicial factor, and the account charge and discharge enables an abstract to be readily made up, but such abstract could as readily be made up from ledger accounts. No doubt the mere fact that such accounts are presented to Court in account charge and discharge form sways agents and accountants to the presentation of trust accounts in a similar form. But whatever may be the reason for agents and accountants preparing trust accounts in that form, regard should be given to the persons who have to peruse them. Where the trustees are solicitors or accountants no difficulties arise, but, as is often the case, trustees are nominated by the deceased for their family connections or business ability. Accounting qualifications are not possessed by the average trustee, and it is for this class that the suggestion is made that the accounts should be presented in a simple form and not in the form of an account charge and discharge.

IV. CAPITAL AND REVENUE.

As is often the case, an estate is left to someone in life-rent, called the life-tenant or life-renter, and to another in fee, called the remainderman or fiar. In other words, the free capital as at the date of death vests in the remainderman or fiar, while the free revenue on such capital is paid or accrues to the life-tenant or life-renter. The estate in this case is vested in a trustee, who pays the free income to the life-renter and, according to the terms of the will, hands over the estate at the stipulated time, or on the happening of a certain event, to the fiar.

It is, therefore, of the greatest importance that all transactions occurring after the date of death should be carefully considered in the light of determining whether they pertain to capital or revenue.

The book-keeping for transactions on behalf of a trust is similar to that for an executry. The cash transactions would be recorded in the general cash book of the agent, and from there posted to the trusts ledger. From the account in the trusts ledger, the set of accounts of the trust concerned would be prepared.

Where questions of capital and revenue are involved, as they will be in most trusts, it is neecssary to show in these accounts the free income for the year, and consequently a cash basis alone cannot be adopted. While, for the capital transactions the cash basis might be adopted, it is imperative to show all income and expenditure in the set of accounts prepared. The life-tenant will require to see from the accounts that all income has been accounted for, while the remainderman or fiar will also wish to see the estate ultimately falling to him. Such information can most readily be obtained from a set of ledger accounts written up from the inventory and cash transactions. Where, for example, property is held as at the date of death, there will be included for estate duty all accrued rent to date of death. Again, where stocks and shares are held, accrued dividends will also require to be provided for, so that when the actual cash is received for rents or dividends, an adjustment must be made to arrive at the proper share of these effeiring to the life-tenant. In a similar way, adjustments will require to be made of burdens paid after death which accrued prior to and after death. All these adjustments are termed apportionments and fall to be shown in the accounts.

Assuming that the cash transactions have been fully posted to the debit and credit of an account in the trust ledger, the first step in the preparation of the set of trust accounts is to go over the items necessitating apportionments. Having marked such items, next make the necessary calculations, and when the ledger accounts have been prepared, carry out the transfers between capital and revenue accounts. Where apportionments are numerous, it is always preferable to prepare a schedule of such items and post in total, which obviates many cross entries in the accounts.

It is a good plan to schedule the items which are apportionable, and pass one or two entries through instead of showing too much detail. If any interests or dividends fell to be apportioned, the cash received would appear at the credit of an account headed "Interest and Dividends." The amount included therein which belonged to capital would be debited to that account and credited to "Accrued Interests and Dividends" account opened as at the date of death. If the accrued dividends were included in the value of the stock at date of death, the transfer would be credited to the asset account concerned, thus reducing its value to a figure excluding accrued dividend.

It is often the case that in equity, apportionments are made which would not be upheld if challenged in a Court of Law. In England there are three classes of apportionment, viz, at common law, by statute, and in equity; but in Scotland only apportionments at common law and by statute are recognised. Most of the decisions given under the third category of equity refer to special circumstances in each case, and cannot be taken as precedents. In many cases the decisions seem contradictory, but when the special circumstances are considered there is reason for each decision.

The Apportionment Act of 1870 should be studied, as its terms apply to Scotland as well as to England.

We might spend a whole day discussing the subject of apportionment under these heads:—

First.—Apportionment of dividends and interest.

Second.—Apportionment of rents.

Third.—Apportionment of the price of stocks bought or sold.

Fourth.—Apportionment of charges, &c.

Fifth.—Stocks bought at a premium redeemable at par.

In the time at my disposal, let us take the first and third in detail, while the others might incidentally be referred to later.

APPORTIONMENT OF DIVIDENDS AND INTEREST.

Dividends, like interest on money lent, are held to accrue from day to day, and are apportionable in respect of time accordingly. Taking the common case of a half-year's interest falling due at May 15th, and supposing the date of death January 2nd preceding, the question arises how much of the half-year's interest received after death belongs to the life-renter. Is the half-year's interest in respect of *half of a year* (182½ days) or for the number of days between November 11th and May 15th (185 days), and again, what date is to be taken as the starting point—November 11th or May 15th. Here are three apportionments which could be made:—

(1) $\frac{52}{185}$ to Capital $\frac{133}{185}$ to Revenue.

(2) $\frac{49\frac{1}{2}}{182\frac{1}{2}}$ " $\frac{133}{182\frac{1}{2}}$ " (Counting back from May 15th to January 2nd.)

(3) $\frac{52}{182\frac{1}{2}}$ " $\frac{130\frac{1}{2}}{182\frac{1}{2}}$ " (Counting from November 11th to January 2nd.)

No. (1) looks upon the half-year's interest as for the number of days between November 11th and May 15th.

No. (2) assumes the interest to be for *half of a year*, and the original date of lending the money May 15th, while in No. (3) the theory is that the money was originally lent on November 11th, hence reckon *from* that date.

Most accountants look upon the payment of interest at these terms as payments in respect of half of a year or 182½ days, and it would thus appear that 182½ should be the denominator in making the apportionment. The next question which arises is whether the number of days applicable to capital should first be taken and the remainder of the 182½ days applied to revenue, or *vice versa*, and this depends on the date of the original transaction. Where no indication is given of the date of the original transaction, it may safely be assumed that May 15th is the basic date. The majority of transactions such as lending money on heritable security, takes place at Whitsunday, and apart, therefore, from any information to the contrary, this date should be taken and the reckoning counted from or to that date. If the death of the testator took place as in the example, January 2nd, then reckon from January 2nd to May 15th, and ascertain share to revenue. If date of death were July 3rd, then reckon from May 15th to July 3rd, and ascertain share going to capital, the balance being revenue, always taking 182½ days as the denominator.

Dealing now with dividends, there are three distinct periods when the matter of apportionment of dividends is being considered.

(1) The period during which the revenue from which the dividend is paid has been earned.

(2) The period for or in respect of which the payment of dividend shall be declared or expressed to be made.

(3) The period elapsing between the dates of payment of the dividend.

Sect. 5 of the Apportionment Act lays down that "all divisible revenue shall for the purposes of the Act be deemed to have accrued by equal daily increment during and within the period for, or in respect of, which the payment of the same revenue shall be declared or expressed to be made." The "period of earning" alone in (1) above is, therefore, ruled out, as also the actual period between payments (3) above, and (2) is, therefore, the period of apportionment under the Act.

Many companies are very particular in stating on the dividend warrant the period for which the dividend is declared, and there is no doubt in making apportionments so far as ascertaining the period for or in respect of which the dividend is paid, but there are other cases where the matter is not so clear, and reference may require to be made to the annual report or other document to ascertain the real facts. In one case the dividend warrant clearly expressed the period for which the dividend was declared, although that period was not the period during which the profits were earned, and the warrant alone was taken as evidence. The period of declaration on the warrant was for a half-year to Christmas, whereas the period during which the revenue was presumably earned was a half-year from April 14th to October 14th.

Where the warrant is not clear, reference, therefore, should be made to other documents, such as the annual report and balance sheet, and if they clear up the point, manifestly they should be taken in determining apportionments.

In apportioning dividends there is one general question that arises, and that is whether the "yearly" basis should be adopted as distinct from the "period" basis? What to some may appear the equitable basis may not necessarily conform to the Apportionment Act. It should be noted that the dividend warrant is a very important factor in determining what apportionment should take place.

The yearly basis is also invariably applied to the apportionment of interim dividends on ordinary shares, although there is a conflict of opinion on this point. It is held on the one hand that the term "dividend" is so comprehensive that it applies to interim dividends, and consequently the interim dividend alone, irrespective of the year's dividend, should be apportioned.

One writer puts it thus: "As regards interim dividends, the general practice is to apportion them as received, without reference to the dividend which may be subsequently paid for the whole year." Another writer states: "In all such cases [referring to payment of interim dividends] where questions of apportionment arise

it is necessary to consider the dividend for the whole year," while another bears out the first quotation above: "I am aware that here also [*i.e.*, ordinary dividends] a prevalent practice among accountants is to apportion these on the basis of the financial year of the company . . . but is such in accordance with the terms of the Apportionment Act? Dividends, as therein defined, include all sorts of dividends. . . ."

Although, therefore, there would appear to be a conflict of opinion on the interpretation of the Apportionment Act, the use of the word "interim" would appear to settle the question in favour of the yearly basis. The word "interim" qualifies the word dividend and reduces it to the equivalent of a "payment to account," and consequently the dividend for the full year seems to be the proper basis.

"Dividends" include payments by way of bonus or surplus profits and fall to be apportioned.

Before leaving the subject of the apportionment of dividends, it is to be noted that where dividends are postponed in payment from the date during which they were earned and declared to be for, the result may be that a life-renter is deprived of any income for a considerable time after the death. Certain bank dividends are payable in equal portions at two terms after the close of the financial year, and it may so happen that both will fall into capital, and the third dividend received after death will be the first out of which the life-renter will secure any revenue. Take, for example, that the financial year of the bank ends on April 2nd, 1930, and the dividend for year to April 2nd, 1930, paid in two portions on May 15th and November 11th following, and that the proprietor of the shares died on April 30th, 1930, then the two dividends received after death would go to capital. The first dividend apportionable would be that received on May 15th, 1931, out of which the life-renter would get a proportion corresponding to the period from April 30th, 1930, onwards. Capital would get from April 2nd to April 30th, 1930.

Although this hardship exists in such a case, it would, of course, be rectified so far as the estate of the life-renter is concerned when his death took place, as certain of the postponed dividends would fall into his estate then.

Coming now to the—

APPORTIONMENT OF THE PRICE OF STOCKS,

we have the case of stocks held as part of the estate at date of death, and the life-rent has been granted to someone. By the terms of the Apportionment Act, 1870, any dividends accruing to the date of death must be allowed for when the first dividend after death is received. The first dividend after date of death may belong wholly to the estate as having accrued prior to death, or it may have accrued prior to and after death.

It should be noted that the value of the shares as at the date of death includes the amount of the dividend accrued to that date, and consequently when a dividend is received, it is a realisation of capital and not an addition to capital which has wholly accrued prior to death.

Another point to note is that the life-renter only receives revenue for the period following death and does not receive all the income received after death.

Again, assume that the stocks are sold after death, but before any dividend is received, the question arises how the proceeds are to be dealt with. The dividend accruing to the date of death and subsequent to death is not known as the shares are sold out prior to the accruing dividend being declared. In such a case as this, the previous year's dividend is usually taken as the basis, as it represents the expected dividend. In the case of *Cameron's Factor* (1 Rettie, 21), it was held that the price of shares sold in the interval between two dividends fell to be divided between capital and revenue on the basis of the dividend admitted by the parties to have been expected at the date of sale, and not the dividend actually paid. The dividend expected can safely be taken as the dividend ruling for the previous year.

Coming now to the case where shares are bought *cum div* by trustees during the existence of a trust, it is only logical to assume that included in the price is a sum representative of the accrued dividend to date of purchase, and that consequently the money invested in that part of the price will subsequently be realised in cash when the first dividend after purchase is received. But although that may be the logical conclusion, it is to be observed that the Apportionment Act of 1870 gives no authority for such an apportionment of the price. On a strict reading of the Act it would appear to legally preclude any such apportionments, and although the Act applies equally to Scotland as well as to England, a distinction must be drawn between the cases in the two countries. A life-rent in Scotland has been laid down as "the right to use and enjoy a subject during life without destroying the substance." There is no equivalent definition for a tenant-for-life in England, and although even in England apportionments are made they would appear to be contrary to the legal decisions on the point. The position in England has been summarised thus: "It is clear, however, that the general rule is that no apportionment can be made on the sale or purchase of stocks, as between the tenant-for-life and remainderman, either of the proceeds of the sale, or (in the case of a purchase) of the next dividend, but that the first must be treated as capital and the second as income; and it follows that this being the general rule, apportionment can only be made in special cases by the Order of the Court, and therefore it is the duty of the trustee to refuse to make any such apportionment, and to leave it for the tenant-for-life, or the remainderman to take the matter into Court for decision." (*Encyclopædia of Accounting: Article on Apportionment*, Vol. I, page 119.)

While in England the decisions bear out the above general rule, it is different in Scotland where, although the Apportionment Act equally does not apply, the definition of a life-rent given above is kept in view. By this definition of life-rent, apportionments of the price of stocks bought and sold must take place and invariably are made in all cases.

Let me draw your attention to one peculiar case on apportionment where "arrears of cumulative preference dividends may all have to be treated as income in the year in which they are received"—*Wakeley* v. *Vachell* (1920) (T.L.R., 325).

The subject bristles with difficulties, but try to draw an equitable line between the interests involved and there is very little fear that objections will be taken to that course.

Now we can get down to detailed questions on the subject. Having referred to the principles, the meeting is now open for any detailed point you may have. I shall endeavour to do my best to clear up any doubts you have, either on the form in which the accounts should be presented or on questions of apportionments.

A discussion then followed, and Mr. Seggie was thanked for his lecture.

ACCOUNTANCY AS A CAREER.

A meeting of the Public Schools Careers Association was held at Incorporated Accountants' Hall on July 8th by invitation of the Society of Incorporated Accountants and Auditors. Mr. H. Ramsbotham, M.P., M.C., O.B.E., Parliamentary Secretary to the Board of Education, presided, and addresses were delivered by Mr. E. Cassleton Elliott, F.S.A.A., President of the Society, on "Accountancy as a Career," and by Sir John Sandeman Allen, M.P., on "Insurance and Banking."

Mr. Ramsbotham, in giving his support to the objects of the Public Schools Careers Association, said that industry and commerce required leadership above everything else. To obtain good leaders required the most careful selection. Employers called to-day for character and brains. He considered employers should take more pains to express their requirements, as they were apt to be somewhat inarticulate in formulating their needs. This attitude would be more helpful than the nebulous criticisms and vague grumbles which were sometimes heard. The public school system provided opportunities for the display of initiative and the exercise of authority at an early age, and, despite the critics, he believed that public schools produced the qualities of leadership and willingness to assume responsibility which business demanded. Business also required trained intelligence, and he favoured boys remaining at school until 18 instead of leaving at 16. Criticisms by employers of public school boys were frequently founded on prejudice and not on fact, and he believed sympathetic understanding on the part of employers would have favourable results. In regard to the selection of occupation, boys could not be expected to form a proper opinion of their qualifications for particular jobs. They needed advice in the assessment of their capabilities and aptitudes, and for that reason he was particularly glad that special interest was now being taken by headmasters and careers masters in this important work.

ACCOUNTANCY AS A CAREER.

Mr. E. Cassleton Elliott, F.S.A.A., President of the Society of Incorporated Accountants and Auditors, then addressed the meeting on "Accountancy as a Career." He said :—

On behalf of the Society of Incorporated Accountants and Auditors, I am delighted to welcome here Mr. Ramsbotham, the Parliamentary Secretary to the Board of Education, General Sir William Furse, and the members of the Public Schools Careers Association. All of us are grateful for the spirit of co-operation between education, business and the professions, which Mr. Ramsbotham has so happily stimulated.

The problem of what to do with our boys at the present time is as acute as within living memory. The professions have also a responsibility to large numbers of young men who have recently obtained their professional qualifications and are now seeking careers. The accountancy profession is not an exception, though, fortunately, the position is not so serious as in other directions.

Nevertheless, it is a sound instinct which prompts parents and masters to take a forward-looking view and to desire that boys shall be trained for a definite calling, even at some immediate sacrifice. It is fair to hope that in a few years better conditions will offer them promising careers in business and in the professions generally.

The legal profession and the medical profession are definitely regulated by statutes. The accountancy profession is not. The organisation of the accountancy profession is less simple than, for example, the profession of solicitor. There are several bodies in the accountancy profession. I can only speak with authority on behalf of the body of Incorporated Accountants. Perhaps I may say, however, without trespassing, that my more general observations are substantially applicable to those who may wish to qualify through one of the bodies of Chartered Accountants in England and Wales, Scotland and Ireland, with which my Society is in friendly communication.

Although the accountancy profession is not regulated by statute, strict professional discipline is enforced through the regulations and practice of the respective bodies. The regulations likewise prescribe the conditions of training and of admission to the examinations. The qualification Chartered Accountant is the exclusive designation of members of the bodies of Chartered Accountants, and by a decision of the High Court the designation Incorporated Accountant is the exclusive designation of members of the Society of Incorporated Accountants and Auditors.

The qualification of Incorporated Accountant is a world-wide qualification, and the activities of the Society extend to the British Dominions.

SYSTEM OF PROFESSIONAL TRAINING AND EDUCATION.

In general terms, the requirements of the Society of Incorporated Accountants, in regard to candidates, are :—

1. Evidence of cultural education, prior to commencement of professional training. (A school or matriculation or similar certificate.)
2. Practical training under articles to an Incorporated Accountant for five years (University graduates three years), or in certain special cases service without articles for nine years with an Incorporated or Chartered Accountant in public practice. Provision is also made for the acceptance, subject to conditions, of service with a principal Municipal or County Accountant.
3. Study and coaching for the two professional examinations.
4. Membership of an Incorporated Accountants' Students' Society.
5. Passing the Intermediate and Final examinations.

These requirements are fulfilled simultaneously during the period of training ; examination preparation is mostly done in the evenings, and leave of absence is usually granted just prior to the examinations.

Articles are entered into by deed. Generally a premium is paid to the principal. The amount of premium and salary to be earned by the clerk are matters for negotiation. Premiums vary according to the standing of the office ; somewhat exceptionally, articles may be given without premium. Principals, being Fellows in practice, are limited to three articled clerks. Premiums vary from, say, 100 guineas to as much as 500 guineas. As a general rule the amount of salary paid over the five years would be equivalent to the premium. Apart from premium, I estimate the total cost, including books, subscriptions, coaching fees and fees upon election, at £70 to £80. Graduates are permitted to serve articles for three years, but the general opinion is that it takes a man at least five years to learn his job.

SELECTION OF BOYS.

I consider there should be deliberate selection of boys who wish to qualify for the accountancy profession. It is a mistake to consider that accountancy may be a promising refuge for the boy who does not go to the University or cannot get into the fighting or civil services.

A boy should be studious but not too bookish, practical minded and not academic. He should be a good mixer, and sporting qualifications should be helpful (within limits). A careful, thorough and precise (but not pedantic) temperament, a capacity to examine premises exhaustively before coming to conclusions are required. I also commend that independence of character which will leave all doubtful proposals alone and will be able to impress a similar view on others.

In my opinion a boy should have a trial of a few months (not more than six) to see whether he has a definite liking and aptitude for accountancy before entering into his articles.

Good writing, clear readable English, some mathematical capacity are vital, and a working knowledge of one or two foreign languages is useful. It is not necessary to overstress mathematical capacity, though accountancy abhors inaccuracy. Personally, I should not rule out a boy who has shown aptitude in classics, provided he has some mathematical capacity. The classical scholar generally is precise, logical, and a clear thinker—valuable aptitudes for accountancy. Most of us in the profession view with disfavour any attempt to deal with vocational subjects before a boy leaves school. Provided a boy has completed the necessary scheme of general education, I should not object to him obtaining a general idea of business organisation or economics—but certainly not book-keeping.

In regard to exemption from the Society's Preliminary examination, we accept as the minimum the school certificate without conditions. We have received information that educational authorities prefer this course to a certificate with certain credits. But I should like your view on this point. Our desire is to test general capacity and to rule out at the beginning totally unsuitable people. The risk of eventual failure must not be overlooked. The standard required in professional studies is very high, and failures in the Final examination range from 50 to 55 per cent.

THE BUSINESS OF THE ACCOUNTANCY PROFESSION.

The items constituting the business of the accountancy profession substantially follow the subjects of the examination syllabus of the Society, and for light reading may be illuminated by the more entertaining parts of the published examination questions.

But any general idea conveyed by the examination syllabus is inadequate because the work of the accountancy profession extends over the whole range of business, financial and industrial activity. Accountancy concerns itself more particularly with questions of finance and organisation, but speaking in the presence of Sir John Sandeman Allen, who is to address you on Insurance, I must modestly say we are not experts in minding everybody else's business.

Auditing and the preparation of accounts form a substantial portion of the business of practising accountants. Auditing I may describe briefly as the independent verification and certification of accounts. Thus accountants must be thoroughly familiar with the constitution, management and finance of companies. The settlement of income tax matters with the Inland Revenue is another important branch of professional business.

PROSPECTS AFTER QUALIFYING.

There is no clear road; most depends on the man himself. It is no good for a man to have an accountancy qualification and yet be unable to write a good memorandum of his qualifications when applying for a job, or to set out a professional report so that clients can readily understand it. The young qualified man may continue as clerk to a firm. If he shows special aptitude and can introduce business, he may have the opportunity of a partnership; this generally takes some years. If possessed of some small capital and having the prospect of a connection, he may commence practice on his own account. It must be clearly understood that an accountant can only obtain business in the ordinary professional manner, and must eschew any temptation to over-zealous methods of securing business. A practice is obtained by recommendation and through the personality of the principals. I can speak with confidence of accountancy as an interesting and promising career. Its work is attractive but strenuous. One forms valuable friendships with clients and with professional colleagues. Personally, I have found much happiness in my own practice and in the work of the Society of Incorporated Accountants. There is an increasing tendency for companies and commercial undertakings to engage on their permanent staffs qualified members of the accountancy profession for whole-time appointments. Such appointments are made by competitive interview, or sometimes upon the introduction of a firm of Chartered or Incorporated Accountants by whom a man is employed.

In normal times there were always good vacancies for Chartered and Incorporated Accountants overseas, either as principal assistants to firms in public practice or in respect of appointments with companies and firms of merchants. Our experience has been that those who have gone overseas have done well, although there has been some reaction during the last eighteen months owing to the world-wide depression. I strongly urge young qualified men to go abroad whenever they can, because advancement is likely to be more rapid than at home. There has been an unfortunate tendency for the men of this generation to show some reluctance to go abroad, but I hope during the next few years this will be overcome, particularly in view of the improvements in overseas communication.

My address is necessarily in summarised form, and if any of you at any time would care to see Mr. Garrett, the Secretary of the Society, he would be happy to give you any further information. He would also be pleased to help you as far as possible in regard to suitable vacancies, though you will realise the Society cannot take any responsibility for a vacancy which may be mentioned. The Society's library contains a good deal of literature on the accountancy profession, and I should be pleased if you would care to consult the information available when you may be in town and have a spare hour.

I would express my appreciation to Mrs. Radice for having arranged this agreeable meeting.

Sir John Sandeman Allen, M.P., also spoke on the careers open to public school boys in insurance.

Among those present were: Mr. John Bell, High Master of St. Paul's; Mr. J. Talbot, Master of Haileybury; Mr. C. H. Blakiston, Headmaster of Lancing; Mr. J. F. Roxburgh, Headmaster of Stowe; Mr. R. V. H. Roseveare, Winchester; Mr. T. L. Thomas, Rugby; Lieut.-General J. M. Young, Bursar, Repton School; Lieut.-General Sir William Furse, K.C.B., D.S.O., President; Dr. W. A. Bulkely-Evans, Secretary of the Headmasters' Conference; Mrs. A. Hutton Radice, Hon. Secretary; Mr. R. Wilson Bartlett, J.P., Vice-President of the Society of Incorporated Accountants and Auditors; Sir James Martin, J.P., and Mr. Thomas Keens, D.L., Past Presidents of the Society; Mr. Richard A. Witty, President of the Incorporated Accountants' London and District Society; Mr. William Paynter; Mr. G. Roby Pridie, Vice-President of the Incorporated Accountants' Students' Society of London; Mr. A. A. Garrett, Secretary, and Mr. E. E. Edwards, Parliamentary Secretary of the Society of Incorporated Accountants and Auditors.

CONSPIRACY ALLEGATIONS AGAINST DIRECTORS AND AUDITOR.

Appeals against Verdict and Judgment.

Appeals against the verdict and judgment (as reported in the June issue of the *Incorporated Accountants' Journal*) against persons concerned in the direction, management and auditing of the accounts of Combined Pulp and Paper Mills, Limited, came before Lords Justices Scrutton, Lawrence and Greer in the Court of Appeal on July 6th and following days.

Mr. Albert Martin Oppenheimer, a solicitor and formerly director of the company, Sir Walter Townley and Mr. Adolph Goldsmith, also directors, and Mr. Eugen Spier, who was stated to have acted as an alternative director, appealed against a judgment for £92,400 entered against them.

Mr. Thomas Froude, Chartered Accountant and auditor of the company, appealed against a judgment for £24,400 entered against him.

The judgments were all obtained at the suit of Combined Pulp and Paper Mills, Limited.

Mr. D. N. Pritt, K.C., and Mr. H. G. Robertson (instructed by Simmons & Simmons) appeared for Mr. Oppenheimer; Sir Walter Townley and Mr. Goldsmith appeared in person; Mr. Harold Simmons and Mr. Willis (instructed by Zeffertt & Heard) appeared for Mr. Spier; Mr. Cyril Atkinson, K.C., and Mr. H. D. Samuels (instructed by Mr. William Charles Crocker) appeared for Mr. Froude; Sir Patrick Hastings, K.C., Mr. Stuart Bevan, K.C., and Mr. H. C. Marks (instructed by Theodore Goddard & Co.) represented Combined Pulp and Paper Mills, Limited.

Mr. D. N. Pritt explained that certain parties to the action before Mr. Justice MacKinnon were not parties to the appeal because the jury had found in their favour.

Everyone could see now, he said, that a gross fraud was perpetrated on the Combined Pulp and Paper Mills, and indirectly on the investing public. It was patent that that fraud was perpetrated by Mr. Bruno Philipp. It was a long and ingenious fraud, and it was not easy to see at what point it started.

Possibly the intention was in Mr. Philipp's mind from the start, but it would have been easy for ordinary, vigilant persons to have been connected with the company for quite a long time before discovering that any fraud was being perpetrated at all.

Mr. Oppenheimer resigned after an investigation for the express purpose of making sure that everything was regular and in order, but which was undertaken in consequence of criticisms that appeared in German papers.

The Court would be asked to say that there was no case at all against Mr. Oppenheimer, and that there was no evidence which justified the Judge in leaving the question to the jury either on the question of conspiracy to defraud or wilful default.

From what happened after the jury retired it seemed that the jury had intended to negative the case of fraud or conspiracy against the defendants other than Mr. Bruno Philipp.

After the verdict of the jury had been given it appeared that the jury had sent some message to the Judge. The substance of it was that they wanted to know the difference between fraud and wilful default. The Judge replied that in this case it did not matter.

I confess, added Mr. Pritt, that if I were a distinguished solicitor, or a distinguished diplomat like Sir Walter Townley, or an ordinary decent human being, or an auditor like Mr. Froude, and the jury said I ought to pay, it would be a little consolation to me to know that I had not been found guilty of fraud, and if it had to be decided whether I were to continue the profession in which I had spent my life, or in which my father had set me, some people who had that question to decide might want to know whether I was fraudulent or not.

That, however, was how the matter was left by the verdict of the jury and the judgment of the Judge.

Lord Justice Lawrence having asked a question with regard to certain shares, Mr. Pritt remarked: Your Lordship remembers the Stock Exchange conditions in 1928.

Lord Justice Lawrence: No, I am afraid I do not.

Mr. Pritt: I only meant that your Lordship must have heard a lot of litigation about it. It was a state of optimistic hysteria for twelve months. I think £128,000,000 purported to be invested on the London market in twelve months, and I think it was represented by less than £10,000,000 six months later.

Mr. Pritt referred to a certificate produced in 1928 by Mr. Bruno Philipp (who was a defendant in the action) to show the condition of a subsidiary company.

Lord Justice Lawrence: The public undertake to invest money on the faith of the names of the members of the Board. It is not enough for the board to say: "I thought it was all right. I could not be expected to investigate when I had a fellow director who was versed in finance." That won't do.

Mr. Pritt: I respectfully agree.

Mr. Oppenheimer always required assurances from skilled persons, said Mr. Pritt, that matters were in order, and he would not let a recommendation for any dividend go forward until he was assured that the money was there.

Mr. Pritt read correspondence to show that the Combined Pulp Company received the £75,000 and £105,000 which have been mentioned in the case. Out of the £180,000 they were debited with the price paid for shares in Germany.

Sir Patrick Hastings: Before the company received the shares Mr. Bruno Philipp had received £500,000.

Mr. Pritt: All I am trying to establish is that the £180,000 was actually paid, and that the debits in the account are real debits for which the company had value. That somebody succeeded after giving that value in cheating them out of something else by false pretences I am not surprised to hear nor concerned to deny.

Lord Justice Greer: The Bruno Philipp Bank actually paid.

Mr. Pritt: Yes, and the directors who were not in the swindle with Mr. Philipp could accept the account at its face value. The account showed a final credit balance of £68,738, which was received.

Lord Justice Greer: What happened to the cheque?

Mr. Pritt: The cheque was met.

Lord Justice Lawrence: What did the company do with the money?

Mr. Pritt: They used it to pay a dividend.

Mr. Pritt read evidence to show how the company was put in funds to pay a dividend. It was paid £105,000 and there was a verbal guarantee by Mr. Bruno Philipp.

Lord Justice Scrutton: It is all very odd. From Germany there is a guarantee that the dividend from one of the subsidiaries will be enough to enable a dividend of 10 per cent. to be paid for three years. To whom is that guarantee given?

Mr. Pritt: Either to Spier or to the plaintiffs.

Lord Justice Scrutton: You can't give a verbal guarantee to the plaintiffs. They are a company. What man is at the other end of the guarantee?

Mr. Pritt: Really Mr. Spier, I think.

Lord Justice Lawrence: Mr. Spier was not even a director.

Mr. Pritt: He was a promoter. It could be given a veneer of respectability. Spier is not in the air.

Philipp says to him: "You, Mr. Spier, or the Lothbury Trust are going to put shares for £395,000 before the public. If you are anxious about it I will give a verbal guarantee that the profits of this subsidiary for three years will be such that the Combined Pulp can pay 10 per cent." And Spier can answer: "As I am vitally interested in the success of this company I will accept that guarantee as trustee for the company."

Sir Patrick Hastings, K.C., for the respondent company, said that moneys, as they came in from the new issue, were paid out under contract to Philipp. The final balance that Philipp owed the company was £507,000.

Lord Justice Scrutton: Was there any evidence before the Court as to what had become of Philipp?

Sir Patrick Hastings: No.

Or as to what became of the money?—No.

Mr. Pritt: There was evidence that certain shares which had been bought for the company were misappropriated.

Sir Patrick Hastings: Oh, yes. He misappropriated our shares, too.

Mr. Pritt: So long as they honestly thought that Philipp was a bank and honestly thought they were employing him to buy shares it was proper to pay out these sums.

Lord Justice Scrutton: The chairman said nothing at the first annual meeting about that item in the profit and loss account "Interest, dividend and commission £108,000."

Mr. Pritt: He said it included substantial sums which were non-recurring in the same form.

Lord Justice Scrutton: If he had said how much was interest, how much was dividend, and how much was commission, the shares would have gone down with a run, I suppose.

Mr. Pritt: I am a child in these matters, but I think it would depend on the answers given to questions by shareholders as to what the commissions were. I want the whole system blown up with bombs, and try to bring the most sensible criticism to bear on it. If you are told £108,000 is non-recurrent, and you don't ask questions, I do, in fact, sympathise with you, but I don't know that I ought to.

Lord Justice Scrutton said he could not help recoiling from people who put forward the Amsterdam resolution of September 30th.

Mr. Pritt: When I look at the company's transactions and compare them with far more complicated transactions which were perfectly honest from beginning to end, I don't recoil, because, although they might be a modest step forward in somebody's scheme to defraud, they are equally capable of being regarded as a step forward in a perfectly honest transaction.

It was not difficult, added Mr. Pritt, to see a cleverly worked fraud, but on one side it was a perfectly honest transaction, though on the other the person who was carrying out the fraud might be saying: "How beautifully they are being gulled and what a lot of money for me in the end." The real question was how many people on one side of the road would know what was going on on the other.

Lord Justice Scrutton: Divide the sheep from the goats. (Laughter.)

Mr. Pritt: Yes.

If Mr. Oppenheimer was a conspirator, said Mr. Pritt, it was at least plain that he did his best all through to expose the conspiracy.

Lord Justice Scrutton: It could not be said that the jury were not intelligent or that they did not take a great deal of trouble over this case, and there were three accountants on the jury.

Mr. Pritt: Twelve accountants with the assistance of the Angel Gabriel could not try this case properly unless they were directed on the law.

Mr. Pritt read correspondence and documents leading up to the resignation of Mr. Oppenheimer from the board.

Sir Patrick Hastings: Your Lordships will find that in the same minute where the board records Philipps' enormous indebtedness which he cannot pay, they write him out a cheque for a small sum.

Lord Justice Lawrence: What date is that?

Sir Patrick: December 20th, 1928.

Mr. Pritt remarked that though it might be wrong for a director not to insist on prompt payment of calls, the thing was not so bad at a time when the shares were at a colossal premium.

Sir Patrick Hastings: Almost immediately after the annual meeting the shares began to go down. In December, 1928, they were at 27s.

Mr. Pritt: That is 33 per cent. above par.

Sir Patrick Hastings said that Philipp got money advanced to a concern in which he was a partner, and it was out of that advance that he paid outstanding calls on shares.

Mr. Pritt said that Mr. Oppenheimer had only increased his holding of shares in the company. He started with 500 ordinary, his director's qualification, bought 500 deferred afterwards, had 1,000 ordinary given to him, and purchased 2,000 ordinary in March at a premium of just under 50 per cent. In September, 1928, he gave telegraphic instructions to Goldsmith to sell all but his director's qualification.

Lord Justice Scrutton: I follow that there is a repurchase coming, but if he sold then he made £3,253 on shares presented to him and £3,107 on shares purchased. He had done pretty well.

Mr. Pritt: When he got back to England in October he bought back, and Mr. Goldsmith had been so leisurely in carrying out the instructions to sell that he bought back for the same account and his share transactions end in little loss or little profit. In fact he bought back 100 more than he originally possessed. At the time of the new issue, proceeded Counsel, he applied for 3,600 shares. According to the plaintiffs' case the honest value of these shares was at that time only a threepenny bit.

Lord Justice Greer: That would not be very convincing if he sold them afterwards.

Sir Patrick Hastings: Mr. Oppenheimer was cross-examined. He was faced with a letter to stockbrokers in which he had tried to sell at a profit. He did not sell because he could not get the price he wanted.

Mr. Pritt: The instructions to the stockbrokers are dated in September, 1929, months after he had ceased to have any connection with the company.

Lord Justice Greer: He held them for a considerable time without trying to sell.

Mr. Pritt: He holds them to-day.

Lord Justice Greer: No doubt many people would like to sell them to-day.

Mr. Pritt, proceeding, pointed out that at the time of the new issue Mr. Oppenheimer put £5,000 of his own money into something which he must have known to be worthless if the plaintiffs' case was right. Not content with that he bought deferred shares at a substantial premium. Altogether £7,000 of his own money was put into the company at a time when, according to the plaintiffs' case, he must have known the shares were worthless.

Mr. Pritt contended that there was no sufficient direction by the Judge to the jury with regard to the duties of directors, and there was no adequate warning that documents which were evidence against one were not evidence against all. The case made by the plaintiff was that there had been a ramp. Ramp was not a word mentioned in "Salmond on Torts" and no one stopped to consider what the cause of action was.

Lord Justice Scrutton: Ramp may not be in "Salmond on Torts," but a City of London jury know all about it.

Mr. Pritt contended that that made it only the more necessary to give the jury proper directions with regard to proof and other things which were absent in this case. He complained that the summing up of the Judge did not give the jury any enlightenment as to the duties of directors.

Lord Justice Lawrence: The real claim against you is for paying dividends out of capital.

Mr. Pritt: The claim against the defendants was for paying dividends that ought not to have been paid. Proceeding, he said that there was some rascality occurring in connection with the company there was not the least doubt, and it was rascality of the gravest order. But in considering whether individual directors ought to have been held responsible for it it was essential that the greatest care should be taken to see what the cause of action was and to direct the jury what the plaintiffs were called upon to establish in order to succeed on that cause of action. It was essentially a case in which the jury should have been rescued from guessing.

Lord Justice Greer: The strength of the case against Mr. Oppenheimer was that there came a time in which he suspected it would not be right to put matters before the shareholders as he was asked to put them, and he was persuaded when he ought not to have been persuaded.

Mr. Pritt: But the jury were never directed about that.

Lord Justice Greer: I am not saying that the summing up adequately presents that view. It may be that the jury did not exercise their judgment on it.

Mr. Pritt submitted that it had not been proved that a penny of dividend was paid out of capital.

Mr. Cyril Atkinson submitted on behalf of Mr. Froude that no jury properly directed could have found against his client.

There were two possible views of the auditor's action: (1) That he gave his certificate not believing it to be true, or not caring; that was fraud, and the jury negatived it. (2) That he believed his certificate to be true (*a*) because he neglected to perform some duty, or (*b*) performed some duty negligently, or (*c*) because there was justification for his belief.

Where there were so many possible views it was essential that the jury should be most carefully directed with regard to the duties of auditors. In this case they had not been.

There was no evidence against Mr. Froude and he was entitled to judgment. At the very least the judgment given against him could not stand.

In order to make his client liable it had to be shown that he did not believe the certificate he gave. There was no evidence at all that he did not believe what he certified. No verdict of this size and importance could stand when the Judge had given no directions as to the duties of the auditor. There were several theories about the origin of the £75,000 and the £105,000. But it had to be remembered that there was £8,543 available for dividend apart from any such sums. That was profit.

Lord Justice Greer: How much dividend would it have paid?

Mr. Atkinson: About 2 per cent.

Lord Justice Greer: The burden of the case against you is that if there had been only £8,543 no directors in the world would have declared a dividend at all.

Mr. Cyril Atkinson: That is not the point. The point is that to that extent at any rate the capital of the company was not depleted and credit should be given for it.

Lord Justice Greer: If you are right and the damages were wrongly estimated you are entitled to a new trial. Do you really want one?

Mr. Atkinson: I want judgment if I can get it. If I can't get that I want a new trial very much.

Sir Walter Townley, who appeared in person, said he had no doubt now that the directors were misled from the start. But they did not know they were acting with a crook or with a man who was in any way a fraud at the time they were carrying on the business.

He complained that Mr. Justice MacKinnon had unfairly represented his actions and prejudiced him in the eyes of the jury. He asked for a complete quashing of the verdict or at least a retrial of the case so far as it affected him.

Mr. Goldsmith also addressed the Court on his own behalf and complained that the jury had been misdirected on the facts. He acted in perfect good faith, never suspecting during the material time that there was anything wrong with the affairs of the company. He could not have done more to ascertain the facts during that time. He had to rely on technical advisers in law and accountancy. He had lost money. Now he was fighting for his good name. He objected to it being left in any uncertainty what the jury had found against him.

Mr. Harold Simmons argued the appeal for Mr. Spier. He said that there were many transactions which he did not propose to defend and no doubt many were indefensible. But on the evidence the company had failed to make out a case against Mr. Spier. Hitherto everybody seemed to have attributed the reprehensible things to Mr. Spier. There was another side to the picture. The case he was going to present was that Mr. Spier had too much confidence in those who were associated with him and it was that confidence that resulted in his fall. If his advice had been listened to the tragedy would have been averted.

Lord Justice Scrutton: What importance do you attach to the fact that Mr. Spier was an alternate director? Any?

Mr. Simmons: Yes. He has been found guilty of wilful default, not of fraud. I submit he ought not to have been found guilty of wilful default. He was not an officer of the company. He was only acting as proxy for Mr. Philipp. He was only responsible for what he did when he was acting. At the crucial meeting of September 30th, 1928, Mr. Philipp was present himself and Mr. Spier was not acting in any capacity at all.

Sir Patrick Hastings, K.C., for the respondent company, argued that from the start the jury were told that the company had undertaken the responsibility of proving fraud against all of the defendants. It would not be

right to hold the judgment except on the ground of fraud. In his submission the verdict would have been perverse if it had not found that all these gentlemen were guilty of fraud. No jury could have properly found any one of them innocent of fraud.

Lord Justice Lawrence: It is enough for you to say the wilful default was dishonest.

Sir Patrick Hastings: That is exactly what I do say.

Lord Justice Lawrence: You charge them with a wilful default which could not be honest.

Sir Patrick Hastings: Yes. And none of the defendants can complain that their minds were not directed to the fact that they were being charged with fraud. Under these circumstances he submitted that the criticisms which had been levelled at the summing up were without foundation.

Mr. Robertson, replying on behalf of Mr. Oppenheimer, submitted that if a person were charged with fraud he was entitled to have a finding of the jury on that charge. That essential was lacking in this case. If the company's case rested on fraud and fraud alone the jury had not found it. That alone was sufficient to make the trial unsatisfactory and necessitate a new trial.

Mr. H. D. Samuels argued that this was a matter of the most serious importance and a person in the position of Mr. Froude was entitled to have a trial in which the jury were properly directed as to an auditor's duties, were properly informed of the issues to be tried, and what the allegations against him were.

Sir Walter Townley said that he had no intention to deceive anyone.

Mr. Goldsmith submitted that he had tried his utmost to do his duty as a director and his duty to the shareholders. If he failed, he failed honestly.

Judgment was reserved.

As we go to press we learn that judgment has been given dismissing the appeals, the damages against Mr. Froude being reduced by £738.

Society of Incorporated Accountants and Auditors.

MEMBERSHIP.

The following promotions in, and additions to, the Membership of the Society have been completed since our last issue:—

ASSOCIATE TO FELLOW.

PULKER, DOUGLAS HENRY (Walter Hinton & Pulker), Namaqua House, Greenmarket Square, Cape Town, South Africa.

ASSOCIATES.

BARKER, ARTHUR JAMES THOMAS, Audit Department, Ministry of Health, 117, Lansdowne Road, Worcester.

BRADLEY, JOHN FREDERICK FREEMAN, Clerk to Barnes, Bryant & Co., 41, St. James's Place, St. James's Street, London, S.W.1.

BROWN, JOHN KENNETH, Clerk to Saxton, Shaw & Co., Bank Chambers, Eldon Street, Barnsley.

HEATH, RICHARD EDWARD, Clerk to Bernard Andrews and Co., 58, High Street, Watford.

LITTLE, ROBERT DOUGLAS, Clerk to Johnstone, Davies and Moulder, 13, Church Street, Kidderminster.

MADDERS, HAROLD, Clerk to H. O. Bennett, 5, Opie Street, Norwich.

PICOT, DONALD EWART, Clerk to Alex. E. Picot & Co., Trinity Chambers, Hill Street, Jersey (C.I.).

Taxation as an Economic Factor.

A LECTURE delivered before the Incorporated Accountants' Students' Society of London and District and the South Wales and Monmouthshire District Society by

Mr. W. J. BACK,
INCORPORATED ACCOUNTANT.

The chair was occupied by Mr. E. CASSLETON ELLIOTT, Vice-President of the Society of Incorporated Accountants and Auditors.

THE STATE'S CLAIM ON PRODUCTION.

Mr. BACK said: Professor Marshall has taught us that Economics is the study of man engaged in earning his living; economic factors are therefore those which affect him in that capacity. It is immediately recognised that land, labour and capital each have a place as economic factors and a little consideration makes it equally clear that as producing units grow in size and complexity the capacity for efficient organisation becomes an indispensable factor, the cost of which is not something paid for out of an existing surplus, but the skilled organiser makes a real contribution, diminishing net cost and increasing the balance available for distribution amongst those concerned. The economic justification for taxation is that the State also is a partner in the productive enterprise—as really a factor of production as either of the others.

The basis of all industrial activity—order and justice—are products of the State. The right to appropriate the land upon which the productive act takes place is granted by the State, the security of capital involved can only be guaranteed by the State, the availability and quality of labour (including sanitary services which contribute to its health, and educational facilities) depend likewise upon the existence and activity of the State. Further the modern State accepts responsibility for the insurance of its citizens against the ultimate casualties of industry—the contingencies of old age, unemployment, and continued sickness. Recent events have reminded all the world, too, of the importance of the responsibility necessarily resting upon the State for the provision of currency as a measure and standard of value, by which debts can be measured and in which values can be stored.

These taken together represent contributions the importance of which it would be difficult to over-state. The claim of the State is, therefore, that as a partner it is entitled to participate in the dividend, precisely as labour, land and capital participate. Consideration will make it obvious that not only is the State a factor in production, but that as civilisation advances its contribution necessarily increases in importance and indispensability; when, however, the State, as a factor in production, comes to claim its share of the product its position is differentiated from all others by (1) the generality of the services rendered, which makes the calculation of their cost to a producing unit or individual citizen impossible, and (2) the fact that it can first determine to incur a particular expenditure and then allocate the cost without necessary relation to the value of that service to the particular taxpayers who pay for it. Further, in addition to current economic services, that State has charges in relation to the service of the national debt. It was calculated in 1928 that something like one-fifth of the national income passed into the coffers of the State by way of taxation. In August, 1931, Mr. Snowden, in the course of his Budget speech, said: "Our total national and local taxation is now very nearly one-third of our national income." It may

be that these fractions were not computed on exactly parallel lines, but they give a broad indication of the recent trend and of the persistent tendency of the relative burden of the demands of the State to increase during the fall in the money value of the national income.

The size of the portion of the common product taken by the State, together with the indirectness of its allocation among the beneficiaries by State action, suggests the need for careful consideration both of the principles upon which the burden is allocated and of the effects of the redistribution effected.

PRINCIPLES OF TAXATION.

Modern consideration of the principles of taxation dates from the publication in 1776, by Adam Smith, of the "Wealth of Nations." He enumerates four principles, the first of which prescribes the canon of contribution in proportion to income, as a means of equality. But the realisation that the values of successive slices of income vary, so that an additional £100 to a man with £300 a year is worth vastly more than a similar addition to the income of a man who already has £5,000 a year, has led to taxation at progressively higher rates on increasing increments of income and has destroyed the idea of proportionate charges; then distinctions between earned and investment income have established the principle that the same amount may have a very different taxable value in different hands, according to the class of service for which it has been received. So that all that remains is the vague principle of equality without any guidance as to the direction in which equality is to be sought.

The remaining three "principles" prove on examination to be really nothing more than rules for guidance in administration: the second—"certainty"—is directed against anything which would give the collector an interest in the yield; the third—"convenience"—requires the tax to be fitted as closely as possible to the income; and the fourth requires "economy" in collection.

Modern consideration has added that the tax must be (*a*) productive—else it will not interest the Chancellor; (*b*) elastic, capable of variation up and down the scale without material alteration in the machinery of assessment and collection.

But, in truth, the real criticism of the "Principles" of Adam Smith is that he lived and wrote in a world so different, in at least three particulars, from that of the present generation, as almost to constitute a different world in regard to the matter in hand:—

(1) The sources of British incomes have completely changed. No more than a century ago 60 per cent. of the income received came from property; to-day that percentage has shrunk so that income from property is no more than one-fourth of that received from business.

(2) The basis of taxation has changed. Then, taxation was almost entirely indirect, income tax (other than a temporary War Levy) was unknown; now the drift towards direct taxation, which set in during the second half of last century, has banished indirect taxation into the background.

(3) The nature of the expenditure of the State has changed. Then (*a*) social services were almost unknown; now (according to an estimate by Professor Clay on the basis of 1925-26) the expenditure under this head is equivalent to an addition of 12½ per cent. to the total wages paid; (*b*) national debts and their service were unimportant.

For the payment of its charges the State takes toll of (*a*) current production, and (*b*) savings out of past production.

(*a*) *Taxation and Current Production.*—The economic justification for taxation is the value of the services rendered by the State to production; there may be services which are not economic, because a man has a life to live as well as a living to earn, and the former is a much greater thing than the latter and may well introduce considerations which override purely economic arguments; also there are the charges which represent the funded cost of past services. In so far as the services of the State are economic and current, they create a fund out of which their cost can be met, precisely as the service rendered by a workman or a clerk brings a contribution to the pool and makes the payment of remuneration possible. It follows, therefore, that a good system of taxation will aim at placing the burden of the State's costs upon that addition to the production which accrues from the existence of the State and its contribution to the productive act. Unfortunately the precise contribution cannot usually be directly ascertained and earmarked (this difficulty is not peculiar to the contribution of the State), but the theoretical justification of, *e.g.* the Excess Profits Duty, was that there was a rate of profit normal to the business, but, in consequence of special circumstances supplied by the State (to wit, a war), certain businesses were able to make profits in excess of their normal rate, and that excess (resulting from the activity of the State) ought to belong to the State, at any rate in large part. The same argument lies behind the recurrent claim that a special tax should be imposed on that element in site values which has accrued in consequence of the development of communal life around a given centre, so adding a value to a particular plot of land which is not due to the labour or capital of the land-owner. The special cases illustrate the principle.

Economic activity sets out to produce money values, which can be shared between the parties concerned. Clearly, the first charge upon the production must be the replacement to each party of his "out-of-pocket" costs—including proper provision for wear and tear and eventual replacement; covering, on the one hand, the maintenance of capital assets, such as machinery, tools, &c., and on the other the maintenance of the human factor, involving a sufficient remuneration to enable the labourer to live in health and efficiency and bring up a family at least sufficient to replace himself and his wife in due course.

The State has its costs, as has each of the other factors, to be recovered out of the product, but the special position of the State may result in its receiving less than its costs in any particular case or group of cases because it has the power to recover elsewhere. With this exception, in the long run each productive factor must at least receive his costs. That this is inevitable will be obvious from a consideration of what happens if any factor gets somewhat less. Take labour: there is a figure which will just provide for the maintenance of the labourer and his necessary family—what that amount is will vary in different countries and at different periods, but at any place and point of time that figure is for that labourer and in relation to that point of time his subsistence level. There is also a somewhat higher figure which will evoke the labourer's maximum productive effort; this latter figure is his minimum economic cost per unit of production—that is, the cost which will bring the maximum return to the employer. Suppose you pay labour rather less than that, either by reduction or by a fall in the real value of his wage, then his productive effort will fall off and unit cost will rise; if you go further and pay him less than his subsistence level, his productive capacity will fall off, in the long run his family will decrease either by deliberate limitation or by an increase in infant

mortality due to under-nourishment. Scarcity of labour will—by the operation of the law of supply and demand—bring an increase in remuneration. But in the meantime, whilst these causes are working out their effect, there will be continuous friction, manifesting itself in labour unrest as labour endeavours to break free from the limitation, and whilst the long term effect will be a restoration of equilibrium, the short term effect of friction will be economic exhaustion, and the wastage will be felt throughout the whole body economic.

What is true of labour is equally true of capital, though the results of underpayment will, in this case, be less spectacular. Suppose that by the operation of Trades Unions, or similar combinations, labour in a particular industry secures such an excess of remuneration as to leave available for capital something less than its minimum economic cost (defined as above), or, by taxation, the share of surplus available to capital is so reduced; there will be a failure of the supply of capital to that industry, any reserves which can be taken out will be removed; consequently, power to improve and extend capital assets will cease, then power to maintain in working order will be lost, efficiency will decline and productivity fall off, with results precisely parallel to those experienced by the labourer in like case.

So, though in the short term any factor may be starved with highly disturbing effect upon the whole industry, punishing the factor in the superior position only less severely than the factor in the inferior position, in the long run the cost of each direct factor must be recovered by it.

Beyond economic cost is surplus; no productive process will long continue unless there is a surplus. It is for the possession of that surplus that the conflict between the factors of production normally takes place; each, having received his cost, "pulls" at the surplus, and the division of the surplus is determined by the relative bargaining strength, or capacity to pull. The main ingredient in bargaining strength is scarcity, so that surplus tends to be shared in a pendulum movement not determined by any principle of equality, but by a ratio on relative scarcity.

The State's participation is necessarily in the surplus remaining after direct factors have received their costs, and its current economic contribution ought to be fully represented in that surplus; in the long run it is only from the fund so existent that the State can secure its costs. If it places a tax elsewhere (that is, upon cost) it must depress the share of some factor below its economic cost, and so set in motion the train of consequence, in relation to that factor, which has just been enumerated, except in so far as the State can take its toll from past savings unfixed in permanent assets.

The same conclusion is reached by a consideration of the doctrine of economic rent—the reach of which is much wider than its name suggests. The doctrine is that competitive rent is fixed by the fact that, on the margin of production the whole of the produce is absorbed in cost and there is no surplus. Superior land (or superior farming capacity) produces a larger crop for the same cost and provides a surplus, which is the limit of economic rent, either to the landowner or the provider of ability. As price is fixed by the marginal farm, neither the rent of the superior land nor the profit of the superior farmer enters into price at all. Both surpluses—if they exist—are available for taxation, and a tax placed upon either will stay there; but any tax placed elsewhere, whether directly upon the marginal farm or upon any of its necessaries, will ultimately be shifted onward by the party on whom it is placed and tend to be reflected in price.

There are marginal businesses as well as marginal plots of land—businesses which are engaged in a perpetual struggle to recover their costs and barely succeed. In a highly competitive industry these businesses (in which there are no surpluses of material amount) tend to control prices; in their struggle for trade they continually attempt to undercut their rivals—until they go under in the conflict and another, slightly more efficient, becomes the struggler on the margin, with a precarious and constantly diminishing surplus and no capacity to bear tax.

It is, however, of the utmost importance to realise that these long term effects may take a generation to become operative, and throughout the interval the whole industry will be in a perpetual state of friction and disturbance whilst the incidence of the tax upon cost is being shifted.

Taxable capacity is therefore limited by surplus (if imposed in the course of production, as, *e.g.*, local rates, it is nevertheless in the long run a deduction from surplus, in the sense defined above). What is popularly regarded as surplus includes the product of the State's activity, after providing for which the balance is pure profit, available for distribution among all parties concerned. We may therefore lay down as a principle that taxation is upon surplus, therefore the expenditure of the State should be kept within the limit so set, and, further:—

(1) That the taxing authority should endeavour to place the burden directly upon surplus, so as to reduce economic friction.

(2) That a good system of taxation will aim at locating and appropriating for the State that element in product which is due to the State's activity, or recovering it subsequently if it eludes charge in the course of encashing production.

(3) That the test is: that a good tax is one so placed that it can be borne without injury to, or reduction of, productive capacity—that it not only rests upon surplus, but leaves sufficient available to evoke maximum productive effort from each of the other factors.

To summarise the conclusion so far: When costs of direct factors have been paid (which includes maintenance and due remuneration to labour, both of hand and brain; and also to capital, as well as compensation for risk-taking, on an insurance basis) the balance—"surplus," "profit"—is attributable to the existence of the ordered community and is available for its service as a prior charge before additional distributions are made to either factor.

When current income, as arising, has become the main subject of taxation, the whole apparatus of abatement and progression becomes possible. The current English system of exempting the first portion of income sets out to avoid trenching upon the genuine economic cost of labour, and in the lower reaches of income it probably succeeds in avoiding any taxation which would injure productive capacity; in the larger incomes the principle of progression tends to seek out and charge heavily the points at which substantial economic surpluses exist; whilst inheritance taxes are charged upon accumulations presumed to indicate surpluses missed in the distribution of production. In so far as it succeeds in these directions, it answers the tests suggested. The system also recognises that the same amount of income in the hands of two different taxpayers may contain quite different amounts of surplus, *e.g.*, investment income, being unearned by

the recipient, owes more to the existence of the State than income wholly earned; further, the earned income being subject to contingencies from which the investment income is free, has its surplusage reduced by the amount of the charge necessary to provide cover against those contingencies.

In practice it is found impossible to assess directly the incomes of wage earners; their remuneration is based upon short periods—weeks—and within a very short time they may swing from the possession of surplus (when working overtime) to a state of depression (when working short time). Tax must be calculated by reference to a longer period than one of weeks, but wage earners will scarcely know what their annual earnings are, and they have no "carry-over" power, so that the surplus is no longer available when the assessment is complete and the collector calls. Consequently, although a particular class of wage earners may be in a position of economic advantage enabling them to make a very distinct "pull" at the surplus, the share of economic surplus captured can rarely be reached by direct taxes on income. Hence the advantage of some taxation upon income in hand and in the act of being expended, catching surplus as it is represented by available spending money.

Expenditure may be taken as the basis for income taxation, taxing the commodities and services on which income is expended. The virtues of this method are that such a tax is payable by infinitesimal instalments at the moment when funds are available, and that it discriminates in favour of saving by charging only upon income expended; its defects are that it cannot be made to conform to the progressional principle, and whilst it is "convenient" to the taxpayer, it is neither "certain" nor "economic." Local taxation—rating—is really so based, the annual value of a man's house being taken as the best available representation of his demand upon the common stock for personal use (manifestly an unsuitable basis for taxation of businesses and, as such, dating obviously from the pre-commercial era).

In so far, however, as a tax is laid upon expenditures which are not economic necessities, it is clearly laid upon something which the taxpayer himself regards as "surplus" in his income and which he determines is available for use in other directions. This is the argument, *e.g.*, for a betting tax or a tax upon tobacco.

A consideration of the expenditure of wage earners would seem to suggest that surplus over economic necessities is to be found in their income (by their own assessment) as well as in incomes of higher amount. Assume that it is agreed, *e.g.*, that expenditure upon alcoholic drink is uneconomic, as being unnecessary for productive efficiency, it will follow that any tax upon this consumption is a tax laid directly upon surplus, and if it is agreed that all citizens above the rank of the actual pauper ought to contribute to the cost of the "goods" provided by the existence of the community, these taxes merit more serious consideration than they usually receive.

The Colwyn Committee's report includes a calculation of the tax paid in 1925-26 by typical families at varying rates of income. An income of £200 per annum paid no direct taxes, but indirectly it paid £20.7, of which £17.8 represented taxes on tobacco, alcohol and entertainments—none of which could be regarded as strictly necessary expenditures. The tax so paid in instalments amounted to the equivalent of 1s. 8½d. in the £. The total taxation of this income amounted to 10.2 per cent.—all indirect—whilst, when the income rose to £1,000 and taxation amounted to £110, the indirect charges were practically the same in total, but stated as a percentage they were 2.9 only.

So long as these expenditure taxes are not placed upon actual necessaries of life they constitute a very useful portion of a system of taxes, as searching out surplus and not impairing productive efficiency.

(*b*) Savings may be taxed—either in the course of conversion into capital; in the form of taxes specifically upon capital; or covertly in an inadequate allowance for the wear and tear of capital assets in the assessment of a tax expressed as being upon income. A tax expressed to be upon capital is commonly thought of as being in a class by itself. A few years ago, when a levy upon capital was proposed, the outcry that resulted was surprising when one considers that heavy taxation—indeed, any taxation—is in its nature a reduction of the resources out of which capital is in course of being created and operates as a levy upon the capital of to-morrow. Sir Josiah Stamp has quoted Newmarch as saying categorically that "savings, or contributions to capital, ought not to be taxed"; possibly the grounds for this dictum were psychological rather than economic. If a business has had a bad period and lost a substantial part of its capital, an accountant called in to advise would recommend the writing off of losses against capital rather than the mortgaging of future earnings in an endeavour to replace the losses, and if it were objected that the writing off of losses would discourage future investors from putting their money into that company it would be answered that the absence of dividends would be a still greater discouragement to investment. Similarly, if national losses are not written off, the alternative would seem to be the mortgaging of future income to the service of the debts representing past losses, and in the event of trade depression the ultimate use of capital resources, in a disguised form, to maintain income payments. Resulting in an indirect taxation of capital only psychologically different from a capital levy.

Accretions to capital resources are, in the main, of three classes: (1) Accumulations which are inevitable; (2) "Windfalls"; (3) The result of deliberate saving. As to these:—

(1) The evidence of the authorities is that the bulk of the great capital accumulations of the past have been due to circumstances over which the capitalists really had no control. Suppose a man has an income of, say, £50,000 a year free of taxes, it is clear that, apart from the utmost extravagance, he will be unable to avoid considerable savings out of the superfluity. Professor Keynes, describing the growth of English capital assets, *e.g.*, railways, during the second half of last century, says: "It was precisely the inequality of the distribution of wealth which made possible those vast accumulations of fixed capital and the capital improvements which distinguished that age from all others . . . it could not have come about in a society where wealth was divided equitably"; and Professor Taussig, surveying Continental conditions, bears similar witness: "The greater part of the capital owned and maintained in modern communities arises from the savings of the comparatively small number of the more fortunate classes."

On the principles suggested such fortunes have a very high taxable capacity; without the co-operation of the community the accumulations could not have been made and its partnership share is considerable.

(2) Then there are the fortunes which I have described as "windfalls." Where great fortunes have been made

by individuals, they have not commonly been the measure of the capacity or of the industry of the persons making them. Sometimes they have been the result of a new invention, but the invention has not generally been the work of the person who made the fortune out of it. Broadly, great fortunes have resulted from changing circumstances (especially changes in price level, making transfers of value from debtors to creditors, or the reverse), and some man has had the wit, or the enterprise, to seize upon it, or perhaps the good fortune to be so situated as to make his advantage from the change inevitable. Doubtless the wit and enterprise necessary to seize such opportunities have been of considerable benefit to the community and it has been worth while to pay highly for it, but so far as the man is concerned such a fortune can fairly be described as a "windfall," and therefore regarded as containing a very large element unearned by the recipient and due to the existence of the community and the opportunities it affords, which on our principles should be heavily taxed.

A consideration of the present rates of taxation of large incomes will make it clear that the great personal accumulations of the last half of the nineteenth century cannot be repeated. It is practically impossible for anybody to become a millionaire in England now, unless he can find some form of increment which escapes taxation, and it is not only impossible for the accumulations I have described as "inevitable" to take place now, but present taxation is definitely breaking up the estates out of which they came.

Consider the following figures :—

Suppose a married man with three children is in a position of economic advantage so that he succeeds in collecting an income of £50,000 per annum—all earned. Income tax and surtax thereon in 1931-32 will amount to £28,290 (in the year 1913-14 income tax and super tax would have amounted to about £4,000). He will now have left about £22,000 on which to live and out of which to save. Twenty-two thousand pounds is, of course, a fairly substantial sum, but not a sum on the accumulations from which he is ever likely to become a millionaire ; indeed, long before he gets within sight of that goal death duties will become payable, and they will make a very serious inroad upon his savings.

Suppose a man similarly situated inherits an estate of £500,000 capital value to him after the payment of death duties, it will give him an income of, say, £25,000 per annum, on which he will be charged with income tax and surtax amounting to £12,600. But that is not all, for on his death further taxation will be payable out of the estate, and if he wishes to pass on the inheritance intact, he will provide through an insurance company, by annual payment, for this liability. If he is 45 years of age the cost of this cover will be £8,500 per annum, together £21,000 out of his £25,000, leaving him an effective income of £4,000 only.

Or suppose the estate he inherits is of £1,000,000, bringing him in £50,000 per annum. In 1931-32 he will pay in income tax and surtax £28,400, and provision for the ultimate contingency of death duties will cost a further £25,000 per annum, together a levy of over £53,000 out of his income of £50,000 !

Of course, what will happen is that he will pay the income tax and surtax, and the charge for death duties will be left over to be paid out of the estate, and will constitute a clear reduction of capital accumulated by past generations—a levy on capital. And capital is not retained in the form of bank balances, except temporarily ; it exists as trading capital : plant, machinery, railways and the like ; houses and landed property ; holdings in the public debt, &c., whether these (apart from the last named) can be levied upon depends on whether there are buyers available—that is, whether accumulations are being made somewhere out of current production.

And there may be several deaths in a line in rapid succession, which may very well result in a complete breaking up of the estate.

Now the State does not destroy the sums it collects. In so far as they are expended in paying interest to its own nationals as bond-holders, it again takes toll of the interest in the form of income in the hands of the recipient, so that the recipient has very little chance of converting it back again into capital ; in so far as it is paid for the service of loan held abroad it passes out of the national economy ; in so far as it is paid out in, say, armament costs, in salaries or wages or pensions, or in payment for the social services, it passes into the hands of people who are likely to use it chiefly for immediate consumption. The total utility of the funds so used may be definitely increased by the transfer, but the fact is that it is transferred from hands in which it was capital and might have been maintained as such into hands in which it will almost certainly be used for purposes of immediate consumption. Practically the annual sinking fund allocation remains as the only part of the levy upon past savings used for the writing off of past debts.

So far, the economic effect of taxation has been to levy upon capital resources, both of the past and the present, and to put the proceeds to current living expenses account. It is clear that it is simply impossible to proceed further along the lines of taxing the very rich, the possibility of this has been definitely over-passed and is defeating itself, unless capital resources are being accumulated in other directions.

There remains for consideration (3)—Capital accretion by deliberate saving.

This may take place (*a*) through the agency of such institutions as building societies, insurance societies, &c., with a view to retirement and the like. This type of saving has greatly increased in recent years, and it represents one of the sources from which national capital is being replenished. A substantial amount of it, however, is only temporarily available for capital uses because it represents a provision for the contingencies of sickness, old age, &c. Unless taxation becomes prohibitive by destroying the capacity to save, this type of accumulation will be very little affected by its amount. Strenuous endeavours will be made to maintain insurances and house purchase payments, even if taxation reduces the available income.

(*b*) The main source of current capital increase is probably the amounts accumulated in businesses as undistributed profits. The change in the nature of industrial control consequent upon the aggregation of great masses of capital in the hands of super-organisers or groups of professional organisers—who are not usually themselves substantially interested in the capital, but are very much concerned in the maintenance of the business—has led to the growth of the habit of continuing in years of prosperity to make dividend distributions which are substantially less than the total available profits, so retaining margins in the businesses for contingencies and for capital additions. Probably the last of the generally good years was 1924, and in respect of that year Dr. Coates—then a high Revenue official—made certain calculations as to the total national savings,

in which he included £194,000,000 as representing these reserves. It is understood that this calculation was based on definite figures in the hands of Somerset House. He estimated the total savings for that year at £500,000,000 (a figure which agrees very closely with that provided by other eminent statisticians), and in that case the reserves named accounted for 38½ per cent. of the national savings. By far the greater part of these reserves were probably made by companies out of funds which bore income tax but escaped super tax, and the reserves will only indirectly—through their effect on share values—affect death duty receipts. It must be remembered that only in prosperous periods are these accumulations made, and that they are in large part reabsorbed into profit and loss account in bad times, for the equalisation of dividends. Substantial portions, however, would be incapable of such user as having been expended in improvements and developments, and so permanently converted into capital.

Part of the effect of current taxation is, therefore, to disperse capital holdings in private hands, and to assist accumulations in the hands of corporations which are effectively out of the management of the owners of the capital, and are available for partial reconversion into revenue funds.

Akin to these compulsory savings are (*c*), the expenditure on capital assets by municipal corporations and Government Departments, such as housing schemes, public utility undertakings—gas, water, &c. These expenditures are financed by loans repaid by sinking funds over a term of years and so taken by instalments out of revenue and converted into capital.

There are indications that the line of economic and industrial development in the immediate future may be by the creation of semi-public bodies controlling great industries, who will obtain capital on practically fixed interest bases; surpluses being available (1) for capital improvement and increase, and (2) beyond such reasonably necessary increases, returnable to consumers by way of reduced charges.

These considerations may suggest that, after due allowance for the new form of capital accumulation, current taxation is definitely encroaching upon capital reserves, and must in the long run reduce the amount available under British ownership.

There are considerations which suggest that savings at a less rapid rate than during the second half of the last century may be no disadvantage. It may be that sufficient consideration has not been given to the possibility of capital increasing in excess of the amount socially desirable at a particular time. Savings are the proceeds of production withdrawn from immediate consumption, to that extent reducing the available demand for consumption goods, and then used for capital purposes—thus multiplying the quantity of goods for immediate consumption as it reduces progressively the capacity to buy them. In current conditions the rate of interest has definitely ceased to function (if it ever did so function) as the creator of equilibrium between the rate of savings and the rate of necessary capital increase.

Before the war half the British savings found no remunerative investment at home and were invested abroad—so increasing foreign productive capacity. That is to say, that amount of British production was withdrawn from British consumption and exported, not in return for a payment of equivalent value in imported goods, but on more or less permanent loan. This process continued year after year, building up vast funded debts in the newer countries, which could only be repaid, or the interest even could only be paid by (*a*) the despatch of goods to England in excess of those England exported, or (*b*) despatch of gold to England. The War came, and those foreign investments were taken over by the State in exchange for War Loan and transferred to U.S.A. in payment for munitions. So America became a great creditor country entitled to take toll of the production of the world in respect of interest and principal. But U.S.A. had no desire to take such toll of other country's production; she accentuated a natural tendency towards an export surplus by tariff arrangements. Interest due to American nationals could only be paid in (*a*) goods or (*b*) gold. But all the gold in the world must, in the long run, prove inadequate, and payment in goods will make an unfavourable trade surplus. There remains but one alternative, U.S.A. may lend the moneys accruing due annually to her debtors, so adding to the original debt indefinitely, at compound interest.

That is to say, American surpluses of production have been lent abroad, and America can only be paid as long as she is content to forego payment—at compound interest, never paid. In practice, this position is masked by the fact that one set of lenders receive the interest, or the payment for goods exported, whilst a new set of lenders make the new advances out of which the first set are paid their interest, but the moment the new set of lenders fail to come forward the machine breaks down. This would have been the English position if the war had not transferred the problem to America.

Now these considerations may suggest that a less rapid capital increase may be no disadvantage to the body politic, but it is abundantly clear that increasing population and continual advance in science and its application in invention will continue to call for savings which not only replace those which are expiring but provide for extensions and improvements, and if it be the case that taxation has reached a level at which it is breaking up capital accumulations more rapidly than new capital accumulations are coming forward to take their place (let alone provide for the natural rate of increase) it would be difficult to exaggerate the seriousness of the situation and the urgency of the problem of national economy.

Discussion.

Mr. J. A. PLUMPTON, Incorporated Accountant: I do not want to ask any questions, but I should like to say that I was very pleased to see this subject put down for discussion to-night. It is not taxation itself that hinders trade, but, even where this is proved, it will be found to be the method. I submit that it is possible for an income tax of 5s. in the £ to have less effect on industry than one of 3s. in the £ if the methods of assessment and collection are different. I sometimes wonder if too much attention is not given to-day to production and production costs (which problem, if not solved, is well advanced), to the neglect of the other question—that of distribution, so that goods and services are actually not being used where they are wanted or are most useful. This, therefore, raises another aspect of taxation—its effect in assisting distribution, and here again intelligent taxation will assist. As accountants, I suggest that the majority attitude on the question should be that it is not a high-sounding rate of taxation that matters so much as the rules of reliefs, exceptions, and what is assessable. It may be far better to grant relief to trade on certain expenditure now charged to capital, and, say, for heavy sickness to the individual taxpayer, than a 6d. reduction of the standard rate. The alterations, or some of them, in the new Budget must have been drafted by the office boys while their seniors were on holiday; certainly the are not an example of wise management.

Mr. A. A. GARRETT, M.A., B.Sc.: We are indebted to Mr. Back for the light he has infused into a somewhat difficult subject. When the theoretical reasons for taxation are put before us in such an interesting way I almost begin to think that perhaps after all taxation is not nearly such an intolerable burden as we sometimes imagine it to be. (Laughter.) Our practical experience, however, produces a different impression. But this paradox may be explained. I suggest the economists who lived about a century ago properly directed attention to the principles of direct taxation, but did not foresee the extreme limit to which those principles could be pushed and the serious repercussions which have consequently arisen to-day. It was said that taxation should be levied and paid according to the ability of the taxpayer. That is, the rate of taxation should increase in a greater proportion than the taxpayer's resources. But I think insufficient allowance was made for the effect upon savings. Some capital to-day is fluid, and when capital flows away from taxation its loss may have a very serious effect upon the more rigid capital that remains in the country. Time and circumstances affect very seriously the way in which taxation should be levied and paid. For example, it is conceivable that for a short period some years ago a capital levy might possibly have been justified, both from an economic point of view and by its results. But that was only for a very short time, and he would be a very bold man who would say that during the last five years any such expedient was desirable or practical. We can even see that the result of raising the rate of tax may result in a decrease in the gross yield because of the destruction of that incalculable factor, confidence, which it should be our endeavour to restore. I would like to ask Mr. Back upon what principle of taxation this Society has to pay £80 a year for water to slake the thirst of Incorporated Accountants when so much water is given to us by Providence?

The LECTURER: The answer would seem to be that the water is of inestimable value, but the quantity there is of it opposite this building (in the Thames) makes you value it at less than its true worth. (Laughter.)

The CHAIRMAN: I have not very much to add to the discussion. Mr. Back first started by referring to the times in which we are living, and I rather wondered to which Party he belonged. He seemed to me to skate over many methods of expenditure. He referred to social services, and he did not deal with the millionaire at all kindly. And yet I was very glad to observe at the end that he had a certain amount of sympathy for the capitalist. There is not the slightest doubt that if you tax a man, either on his income or on his capital, more than he can really bear you will ruin the man and you will ruin the country. I do not want to enter into politics, but Mr. Back referred to the case of a man having an income of £50,000 a year, which seems to us an enormous sum, and in order to preserve his capital intact he has to spend £53,000 a year, thus borrowing £3,000 from somewhere or other and living on thin air. I think you will appreciate that in this country we have come to the limit of our taxable capacity. The gentleman who spoke first, I think, touched upon a very crucial point when he said that income tax at 5s. in the £ was no worse than income tax at 3s. in the £, provided—and that was a very great proviso—provided it was properly assessed. That is a very important point, and I am very glad that Mr. Plumpton raised it.

Mr. BACK: I think there is very little to reply to. The only question, so far as I realised it, was that of Mr. Garrett relating to water—a subject on which he is a great authority, and on which he need ask nobody else's opinion. I entirely agree with Mr. Plumpton, and with the Chairman; as to the very great importance that is to be laid upon correct methods of assessment. I intended to indicate that when I spoke about there being a surplus—about how important it is that the State should discover the surplus, and tax it wherever it can be found. I agree entirely with the Chairman that the time has arrived when the large incomes have been assessed and charged to tax not only as fully as they can possibly bear, but something in excess of that. I think there may be some taxable capacity in small incomes that has not yet been discovered. It may very well be that the cost of assessing and collecting that tax would be a good deal more than the amount to be collected, which would offend against the canon that a tax must produce revenue.

Obituary.

HERBERT FREDERICK HALLAM.

Mr. Herbert Frederick Hallam, A.S.A.A., died at Newport, Mon., on July 1st, after a short illness, in his 25th year. Mr. Hallam served his articles with Mr. N. E. Lamb, F.S.A.A., of Messrs. Alban & Lamb, of Newport, and obtained Honours in both the Intermediate and Final examinations. The funeral was attended by Mr. R. Wilson Bartlett, J.P., F.S.A.A. (Vice-President of the Society of Incorporated Accountants and Auditors), and Mr. Norman E. Lamb, F.S.A.A. (President of the South Wales and Monmouthshire District Society), and several other Incorporated Accountants.

JOHN HAROLD PIM.

We have learned with regret of the death of Mr. J. Harold Pim, F.C.A. (Ireland), which took place in London. Mr. Pim, who was 65 years of age, was senior partner in the firm of Stokes Bros. & Pim, Dublin. He had been a member of the Institute of Chartered Accountants in Ireland since 1894, and for a number of years was Honorary Secretary and Treasurer of the Institute. He was President from 1920 to 1923, and retained his seat on the Council until his death.

JOSEPH HENRY SCOTT.

We regret to announce the death, on June 23rd, of Mr. Joseph Henry Scott, A.S.A.A., at the age of 73. Mr. Scott had been a member of the Society since the year 1892. He was formerly in practice in Hull, but during the past twelve years he lived in retirement at Birkdale and Southport.

Sir Stephen Killik, F.S.A.A., and Sir James Martin, F.S.A.A., sent messages of congratulation to the *City Press* (London) on the occasion of the publication of its seventy-fifth anniversary number. Sir Stephen Killik also contributed an article on the Stock Exchange to a special supplement of the *Daily Telegraph* on the 25th ult., dealing with the City of London.

The Lord Chancellor proposes to constitute a Committee, of which Lord Atkin will be chairman, to consider the organisation of legal education in England with a view to—

(*a*) Closer co-ordination between the work done by the universities and the professional bodies; and

(*b*) Further provision for advanced research in legal studies.

In the course of proceedings in the Chancery Division recently, one of the Judges remarked that only two classes of people litigated—the rich and the poor; the rich because they could afford it, and the poor because they could not. Nobody would litigate at all if he had any sense.

COMPANY REGISTRATIONS AT SOMERSET HOUSE.

The following is a summary of the registrations from January 1st to June 30th, 1932, as compiled by Messrs. Jordan & Sons, Limited, Company Registration Agents, Chancery Lane, London, W.C.:—

Classes.	Public Companies.		Private Companies.		Totals.	
	Number Registered.*	Capital.	Number Registered.	Capital.	Number Registered.	Capital.
		£		£		£
Advertising	—	—	66	80,605	66	80,605
Boots and Shoes	—	—	42	132,950	42	132,950
Bricks, Cement, &c.	—	—	43	191,800	43	191,800
Builders	2	100	273	709,447	275	709,547
Carriers	1	—	138	311,800	139	311,800
Chemicals	3	394,500	275	5,694,390	278	6,088,890
Clothing	1	—	563	1,803,190	564	1,803,190
Clubs	11	17,750	34	42,399	45	60,149
Drink	1	20,000	29	93,350	30	113,350
Electricity, Gas and Water	5	24,500	259	562,600	264	587,100
Engineers	1	1,250	271	912,344	272	913,594
Farmers and Planters	9	820,350	52	235,305	61	1,055,655
Food	8	25,300	405	2,002,470	413	2,027,770
Furniture	—	—	151	419,075	151	419,075
Glass and Pottery	1	—	44	178,460	45	178,460
Hotels	—	—	53	251,200	53	251,200
Insurance	2	500	27	78,300	29	78,800
Investment, Finance and Banks	9	1,483,600	113	6,030,263	122	7,513,863
Jewellery	—	—	35	181,000	35	181,000
Kinemas	1	30,000	114	408,259	115	438,259
Land and Buildings	5	59,100	218	1,689,830	223	1,748,930
Laundries	—	—	24	77,852	24	77,852
Leather	—	—	52	111,900	52	111,900
Merchants	1	20,500	231	1,030,025	232	1,050,525
Metals	2	450,000	58	419,200	60	869,200
Mines and Quarries	5	496,608	47	369,406	52	866,014
Miscellaneous	10	205,000	172	216,205	182	421,205
Moneylenders	—	—	13	32,350	13	32,350
Motors	1	2,000	246	495,645	247	497,645
Music	2	61,000	36	138,500	38	199,500
Newspapers	2	600,000	16	22,950	18	622,950
Nurserymen	—	—	25	114,550	25	114,550
Nursing	4	—	32	75,255	36	75,255
Oil	—	—	35	166,725	35	166,725
Photography	—	—	30	39,100	30	39,100
Printers	—	—	75	202,671	75	202,671
Publishers	—	—	39	111,855	39	111,855
Rails	—	—	3	6,100	3	6,100
Roads	—	—	18	50,200	18	50,200
Rubber	1	200	41	135,036	42	135,236
Schools	1	—	12	21,700	13	21,700
Shipping	1	—	47	455,950	48	455,950
Sports	12	249,000	124	298,106	136	547,106
Stationers and Papermakers	2	200	69	649,700	71	649,900
Textiles	2	60,000	212	1,025,480	214	1,085,480
Theatres	—	—	49	195,800	49	195,800
Timber	2	233,000	41	260,200	43	493,200
Tobacco	—	—	33	71,600	33	71,600
Totals (first half of 1932)	**108***	**5,254,458**	**4,985**	**28,803,098**	**5,093**	**34,057,556**
Corresponding figures in 1931	*135*	*6,380,672*	*4,202*	*21,348,880*	*4,337*	*27,729,552*
Corresponding figures in 1930	*185*	*22,514,450*	*4,254*	*37,770,173*	*4,439*	*60,284,623*
Corresponding figures in 1929	*388*	*105,410,156*	*4,287*	*46,927,127*	*4,675*	*152,337,283*

* In this column are included 39 "Companies Limited by Guarantee" and "Associations Not for Profit" without Share Capital, such Companies being technically Public however small the membership may be.

Society of Incorporated Accountants and Auditors.

EXAMINATION RESULTS IN SOUTH AFRICA.

MAY, 1932.

Final.

Order of Merit.

PUGH, FRANCIS STEWART ADLINGTON, B.Com., Clerk to Whiteley Brothers, 76-84, Beresford House, Main Street, Johannesburg. (*Fifth Certificate of Merit.*)

Alphabetical Order.

BORTON, JOHN MONTGOMERY, Clerk to H. G. Galbraith (Douglas, Mackelvie & Co.), Sun Building, 102-104, St. George's Street, Cape Town.

BURDON, WALTER RUSSELL, Clerk to W. Murray Smith & Berend, 378-380, Smith Street, Durban.

COOPER, VICTOR DUDLEY, Clerk to Leith, Freake & Cade, 75, Maitland Street, Bloemfontein.

DAVID, THOMAS CARSTAIRS SINCLAIR, Clerk to Lamb, Lawrie & Sinclair, 32-35, North British Buildings, Simmonds Street, Johannesburg.

EASTON, EDWIN CURRIE, Clerk to F. E. Roberts (Roberts, Allsworth, Cooper Brothers & Co.), Stanley House, Commissioner Street, Johannesburg.

FRIEDRICHS, WILLIAM EDWARD, Clerk to Dougall, Lance & Hewitt and Price, Waterhouse, Peat & Co., Pretoria Building, Society Chambers, 257, Pretorius Street, Pretoria.

FRITH, WALDO EARL, Clerk to Douglas Mackeurtan (George Mackeurtan, Son & Crosoer), Old Well Court, 376, Smith Street, Durban.

READ, HENRY AVORY, Clerk to L. A. Whiteley (Whiteley Brothers), 76-84, Beresford House, Main Street, Johannesburg.

WIMBLE, BENTLEY JOHN SKELTON, Clerk to Howard, Pim & Hardy, 95-100, Exploration Buildings, Johannesburg.

WOODHEAD, DONALD, Clerk to J. E. P. Close & Co., Colonial Mutual Buildings, 106, Adderley Street, Cape Town.

(12 *Candidates failed to satisfy the Examiners.*)

Intermediate.

Alphabetical Order.

BECKER, CLIVE ANTHONY, Clerk to C. H. Currie, 17-18, Calcutta House, Johannesburg.

BURNS, RONALD GAVIN HAMILTON, Clerk to A. J. Bonella (Wadley, Wood & Bonella), 21-23, Club Arcade, Durban.

BUTCHER, ALAN ROSS, Clerk to E. S. Crosoer (George Mackeurtan, Son & Crosoer), Old Well Court, 376, Smith Street, Durban.

CAIRNS, THOMAS, B.Com., Clerk to Sir Harry Hands (Hands & Shore), 106, St. George's Street, Cape Town.

DANIEL, FREDERICK WILLIAM, Clerk to S. R. Barnes, Somerset House, Vermeulen Street, Pretoria.

DAVIS, EDGAR OLIVER, Clerk to E. H. Raynham (Salisbury, Beaton & Raynham), 9-11, Christian Street, Kimberley.

DOWNES, BARRY TROUNCER, Clerk to A. H. Berend (W. Murray Smith & Berend), 378-380, Smith Street, Durban.

FAIRWEATHER, ALAN ALEXANDER JOHNSON, Clerk to L. P. Kent (Palmer & Kent), Transvaal Goldfields Building, 6, Fraser Street, Johannesburg.

FOWLER, WILLIAM KENNETH VINER, Clerk to Charles Hewitt (Charles Hewitt & Trollip), 53 to 60, Sauer's Buildings, Loveday Street, Johannesburg.

FRANKS, ERNEST EDWARD, B.A., Clerk to G. E. D. Orpen (E. R. Syfret & Co.), Corner of Wale and Burg Streets, Cape Town.

GIBSON, WILLIAM BRIAN, Clerk to T. J. Paxton, 27, Bureau Street, Pretoria.

HAMILTON, MAURICE DAVID, Clerk to F. G. W. Tucker (Tucker, Higgerty & Co.), 15, 16, 29, Calcutta House, Loveday Street, Johannesburg.

JACKSON, JOHN MARLEY, Clerk to H. A. Olsen, 7-8, Calcutta House, Loveday Street, Johannesburg.

LANGDON, FRED TALBOT, Clerk to James Stewart (James Stewart & Steyn), 14-18, United Buildings, 33, Rissik Street, Johannesburg.

MACDONALD, GORDON ALEXANDER, Clerk to R. Steyn (James Stewart & Steyn), 14-18, United Buildings, 33, Rissik Street, Johannesburg.

MILFORD, CECIL STANLEY, Clerk to A. L. Palmer (Palmer & Kent), Transvaal Goldfields Building, 6, Fraser Street, Johannesburg.

SANDLER, KALIE, B.A., Clerk to Kenneth White (Kenneth White & Co.), Court Chambers, Keerom Street, Cape Town.

(12 *Candidates failed to satisfy the Examiners.*)

Preliminary.

Alphabetical Order.

CROCKETT, WILFRED GORDON, 2, Kingsfold Mansions, Currie Road, Durban.

EVENS, JOHN VINCENT, "Lowestoffe," Cathcart, Cape Province.

PERCIVAL, GUY ROLAND, No. 6, 14th Avenue, Houghton, Johannesburg.

(1 *Candidate failed to satisfy the Examiners.*)

Changes and Removals.

Messrs. S. R. Batliboi & Co., Incorporated Accountants have removed their Calcutta office to 18, Old Post Office Street.

Mr. N. C. Chakravarty, M.A., Incorporated Accountant, has commenced to practise at Lindlie Chambers, 6, Hastings Street, Calcutta.

Mr. Alexander Critchley, Incorporated Accountant, announces his change of address to 15, Sweeting Street, Liverpool.

Messrs. Navroz A. Davar & Co., Incorporated Accountants, have removed their offices to Motlibai Wadia House, 118-120, Parsi Bazar Street, Fort, Bombay.

Mr. John Hillier, Incorporated Accountant, 59, Brook Street, Luton, has amalgamated his practice with that of Mr. Langford R. Lewis, Chartered Accountant, Gordon Chambers, Upper George Street, Luton. The joint practice will be continued at the latter address.

Mr. J. Hoffman, Incorporated Accountant, has removed his offices to Fletcher's Chambers, Darling Street, Cape Town.

Lieut.-Col. T. E. Lowe, O.B.E. Incorporated Accountant, has taken into partnership Mr. W. C. Sproson and Mr. R. Bromley, Incorporated Accountant. The practice will be continued under the style of Messrs. T. E. Lowe and Co., at Grosvenor Chambers, 73, Lichfield Street, Wolverhampton.

Mr. Frank Packer, Incorporated Accountant, has commenced public practice at Fischer's Buildings, Main Street, Port Elizabeth, South Africa

Mr. A. G. Willis, Incorporated Accountant, has entered into partnership with Mr. T. H. Williams, Incorporated Accountant. They will practise under the style of T. H. Williams & Co., at 350-352, Romford Road, Forest Gate, London, E.7, and Chatham.

Mr. J. H. Worsley, Incorporated Accountant, has dissolved partnership with Mr. Tom H. Hargreaves, Chartered Accountant, and will practise on his own account at 69, St. James' Street, Burnley.

EXCESS PROFITS DUTY.

Recomputation and Accountants' Charges.

In the Court of Appeal before the Master of the Rolls, Lord Justice Slesser and Lord Justice Romer, on July 20th, the Worsley Brewery Company, Limited, appealed from the decision of Mr. Justice Rowlatt dismissing an income tax appeal which raised the question whether the sum of £973 13s. 11d. representing the fees of accountants for recomputing, for the purposes of Excess Profits Duty, the excess profits of the company for the years 1914 to 1920 should be allowed as an expense in computing the excess profits.

Mr. A. M. Latter, K.C., and Mr. Cyril L. King appeared for the company, and the Solicitor-General (Sir Boyd Merriman, K.C.) and Mr. R. P. Hills for the Inland Revenue.

Mr. Latter said the point was whether the accountants' fees for making up a correct statement of the profits of the company for an accounting period were expenses which ought to be charged against those profits. The company had employed one set of accountants, and thinking they were possibly paying too much in duty they engaged a second firm of accountants whose remuneration was to be 15 per cent. of the excess profits duty recovered. They saved the brewery about £6,000 and their costs on the percentage basis came to £973, which was the figure in dispute. The Income Tax Commissioners for Bolton held that this was not an allowable expense.

Lord Justice Romer: Are you ever entitled to charge your costs of ascertaining your profits?

Mr. Latter: All commercial expenses are deductible unless there is some prohibition in the Statute.

Lord Justice Romer: You are entitled to charge the expense of making a return of your profits for the purpose of income tax?

Mr. Latter replied that income tax was a share of profits, but excess profits duty constituted a debt due to the Crown. He thought that such a charge would be a commercial expense.

The Master of the Rolls: You cannot go on having another shy at the coconut and playing hit and miss with the accountants. You have already had one charge for the accountants. How many more are you going to have?

Mr. Latter said accountants' charges were one of the expenses of the business.

The Solicitor-General said the test was when did the facts occur which gave rise to the liability? At the earliest this must have been in July, 1925, and at the latest in 1930. These accountants were first employed in 1925 and the last repayment of duty was in 1930. Appellants' argument depended on a confusion between the liability to pay the accountants and the liability to pay the Excess Profits Duty. The two things were entirely distinct. The liability arose from the employment of the accountants, not from the liability to pay the duty. The Inland Revenue were not fighting about the question whether accountants' charges were a proper deduction. They were refuting an attempt to write back into a period which ended in 1920 expenditure incurred at the earliest in 1925 and not earned until 1928 or 1930.

The Master of the Rolls said he accepted the uncontested proposition that this was an accountancy charge which should be allowed and that it might be right to employ two sets of accountants, but said it must be remembered that the expense was incurred in the year 1925 and not before. It was impossible to find any ground on which they could differ from the Commissioners and say that the fee should be split up and appropriated to the years 1914-1920. The appeal failed, and would be dismissed with costs.

Lords Justices Slesser and Romer concurred.

District Societies of Incorporated Accountants.

BOMBAY.

Mr. Sorabji S. Engineer, B.A., F.S.A.A., has been elected President of the Incorporated Accountants' Bombay and District Society for the year 1932-33.

BRADFORD.

Annual Report.

The Committee has pleasure in presenting to the members the following Report on the work of the Society for the year ended March 31st, 1932.

MEMBERSHIP.

The total membership of the Society at March 31st, 1932, and the corresponding figures for 1931 are as follows:—

	1932.	1931.
Fellows and Associates in practice	89	92
Fellows and Associates not in practice	105	101
	194	193
Student Members	113	116
	307	309

PRESENTATION TO MR. HERBERT REYNOLDS, F.S.A.A.

After the resignation of Mr. Reynolds from the position of Honorary Secretary last year, it was the general wish of the members that his very valuable services, extending over a period of nineteen years, should be specially recognised, and it was decided that a presentation should be made to him. Mr. Percy Toothill, of Sheffield, representing the Council of the Society, presented a handsome mahogany bureau and bookcase.

LECTURES AND MEETINGS.

Twelve meetings, including three joint meetings with kindred societies, have been held during the session. It is a pleasure to note that lectures by our local accountants are so much appreciated. In this connection your Committee wish to place on record their sincere appreciation of the services of Mr. George R. Lawson, who again

addressed the members twice during the session, and also those of Mr. A. B. Thoseby, Mr. A. E. Stringer and Mr. C. E. Claridge.

The 1931-32 Syllabus was as follows:—

"Notes on recent Income Tax Cases and the Finance (No. 2) Bill, 1931," by Mr. Victor Walton, C.A.

"The Abandonment of the Gold Standard," by Mr. George Lawson, B.Com., F.S.A.A.

"Dealing with a Bankrupt's Assets," by Mr. E. Westby-Nunn, LL.B., Barrister-at-Law.

"The World Finance Crisis," by Professor J. H. Jones, M.A.

"Social Credit," by Mr. J. G. Dodgson.

Joint Meeting with Yorkshire District Society: "Income Tax Cases."

Joint Debate with the Bradford Law Students' Society: "That the house would welcome the establishment of a court of domestic relationship, to deal with matrimonial disputes."

"The Whole Duty of a Director," by Mr. Albert Crew, Barrister-at-Law.

"Executorship," by Mr. H. A. R. J. Wilson, F.C.A., F.S.A.A.

Joint Debate with Sheffield District Society: "The Evils of the Hire-Purchase System."

"Income Tax," by Mr. Victor Walton, C.A.

"Investigations," by Mr. A. B. Thoseby, C.A.

The average attendance at the above meetings was about 22.

The annual dinner was held on January 15th and was attended by about 130 members and guests, a substantial increase on the attendance last year.

The fourth annual dance was held on February 12th and was attended by more than 140 members and their friends.

Seven luncheons were held during the session, particulars of which are as follows:—

Open Meeting.

"The Aims and Objects of the Municipal League," by Mr. C. Ogden.

"The Difference between an Accountant and a Statistician," by Mr. G. H. Wood, F.S.S.

"A Few Income Tax Points of an Uncommon Nature," by Mr. Charles E. Claridge, F.C.A., F.S.A.A.

"The British Master Printers' Federation Costing System," by Mr. H. J. Gledhill.

"What is Evidence?" by Mr. A. R. Sheaves, H.M. Inspector of Taxes, 4th District, Bradford.

"The Economic Future," by Mr. Geo. R. Lawson, F.S.A.A., B.Com.

The average attendance during the session was 14.

These gatherings have been greatly appreciated by those members who have now become regular attenders, but the Committee give a very hearty invitation to all Incorporated Accountants in Bradford and District to be present whenever they possibly can, and to introduce their friends. The discussions following the luncheons have invariably brought out numerous points of practical interest and matters which prove helpful to accountants in the course of their practice.

The best thanks and congratulations of the Society are extended to the Committee and the students generally for the very efficient and enthusiastic manner in which they carried out all arrangements put in their charge, and in particular the annual dance, held on February 12th, 1932. During the session two meetings were arranged for students only, which were addressed by the President, Mr. A. E. Stringer and Mr. C. E. Claridge respectively.

EXAMINATION RESULTS.

Sixteen students have been successful in passing the Society's Final examination and ten in passing the Intermediate. The heartiest congratulations of their fellow members are accorded to them.

LIBRARY.

The Committee regrets that members still refrain from making adequate use of the Library, and would welcome any suggestions, which would always have its careful consideration. A number of books have been added since the last list was issued in October, 1929.

CONFERENCE OF DISTRICT SOCIETY REPRESENTATIVES.

In the absence of the Secretary owing to illness, Mr. Herbert Reynolds attended the Conference, and took part in the discussions on the various matters that were brought forward.

PRESIDENT.

During the session, your President, Mr. Albert E. Stringer, has represented the Society at various functions of kindred and other District Societies in Bradford, Leeds, Manchester, London, Hull, Stoke-on-Trent, and Liverpool.

HULL.

Election of Officers.

At a meeting of the Committee of the Hull and District Society the following officers were elected for 1932-33:—President, Mr. G. A. Ridgway; Vice-Presidents, Mr. Stanley Scotter, Mr. C. H. Pollard and Mr. A. E. Norfolk; Secretary, Mr. Albert H. Crumpton; Treasurer, Mr. C. W. Preston; District Society Representatives on Students' Committee, Mr. David Morgan and Mr. A. Wroot.

NORTH-WEST LANCASHIRE.

ANNUAL MEETING.

The annual meeting of the Incorporated Accountants' District Society of North-West Lancashire was held at Preston on June 29th. Mr. John Potter, J.P., M.P., of Blackpool (the founder of the District Society), was unanimously elected President for the year 1932-33.

Report.

The Committee have pleasure in presenting the report on the work of the Society for the year ended March 31st, 1932.

MEMBERSHIP.

The total membership on March 31st, 1932, was 190, consisting of:—36 Fellows, 81 Associates, 73 Students; total 190.

This is an increase of 20 (including eight students) over the figures for the preceding year.

LECTURES.

During the session the following lectures were given:—

"Income Tax Claims and Reliefs," by Mr. W. S. Carrington, A.C.A.

"The Law of Contracts," by Mr. John Ambler, Solicitor.

"Receivers," by Mr. P. I. Bell, B.A., B.C.L., Barrister-at-Law.

"Typical Problems in Trust Accounts," by Mr. H. A. R. J. Wilson, F.S.A.A., F.C.A.

"Income Tax—Modern Legislation," by Mr. J. H. Mitchell, H.M. Inspector of Taxes.

"Law and Equity," by Mr. C. A. Sales, LL.B., F.S.A.A.

Taking the session as a whole, the attendance at these lectures was satisfactory, but it is hoped that an even greater interest will be evinced in the lectures now being arranged for the Winter session 1932-33, due notice of which will be given.

EXAMINATIONS.

Congratulations are extended to those student members who were successful at the Parent Society's examinations in May and November, 1931. Eight passed the Final and 17 the Intermediate.

LIBRARY.

A number of text books were added to the library during the year.

The purchase of additional books is contemplated, and a complete list of the contents of the library will be published in the report for 1932-33. Now that the library has been brought up to date there appears to be no reason why members should not make greater use of it. Books may be borrowed on application to the Hon. Secretary, and on payment of postage will be forwarded to out-of-town members.

BURNLEY AND DISTRICT STUDENTS' SECTION.

On March 11th, 1932, the Committee, under the District Societies' Scheme which came into force on January 1st, 1929, finally authorised the founding of a Students' Section at Burnley, to include the districts of Accrington, Burnley, Colne, Nelson and Padiham. In accordance with the new rules, Mr. W. Ashworth and Mr. N. Broadbent were elected representatives of the District Society on the Committee of the new Students' Section. The inaugural meeting was held on April 8th, when Mr. Thomas Keens, D.L., F.S.A.A., Past President of the Society of Incorporated Accountants, was the principal speaker.

ANNUAL DINNER.

After careful consideration the Committee deemed it advisable to cancel the provisional arrangements made for the holding of the third annual dinner in November, 1931, an action which, in view of the grave financial crisis overhanging the country, had the support of the general body of members. Provisional arrangements have been made for the holding of the annual dinner on November 2nd, 1932.

PARENT SOCIETY.

Your Committee again desires to record its thanks to the Council and officers of the Parent Society for much assistance and support. The Society was represented at the dinner arranged by the Parent Society at the Guildhall, London, by Mr. W. Allison Davies and Mr. Harold Howarth.

COMMITTEE AND AUDITOR.

The retiring members of the Committee are Mr. N. Broadbent, Mr. S. W. Clarke and Mr. J. H. Ward, who are eligible for re-election. The retiring auditor, Mr. Alec S. Oldham, is also eligible for re-appointment.

CONCLUSION.

After a full twelve months' experience of working under the new regulations, the Committee feel that the altered arrangements have led to some little increase in the interest taken in the District Society. They hope that the ensuing session will witness still wider evidence that the members are alive to the benefits which will result from the interchange of opinions regarding subjects of vital interest to the accountancy profession. The wisdom of enlarging the Committee has been proved in the quickening of interest in the welfare of the Society, and the Committee look forward with every confidence to the whole hearted support of all the members in the efforts they are continually making for the advancement of the Society's prestige in this area.

NOTTINGHAM, DERBY AND LINCOLN.

Annual Report.

The Committee has pleasure in submitting its twenty-third annual report and accounts for the year ended March 31st, 1932.

MEMBERSHIP.

The membership at March 31st, 1932, was:—Fellows and Associates in practice, 46; Fellows and Associates not in practice, 56; students, 99; total membership, 201. This shows an increase of four for the year.

REVIEW OF THE SOCIETY'S WORK.

During the year eight lectures, one luncheon, a dance and the annual dinner were held. The following is a list of the lectures:—

"Executors and Equitable Apportionments," by Mr. E. Westby-Nunn, B.A., LL.B. (Barrister-at-Law).

"Economics," by Mr. A. C. Radford, B.Sc.

"Currency and the Gold Standard," by Mr. A. C. Radford, B.Sc.

"Law and Accounts relating to Holding Companies," by Mr. C. E. Perry, A.S.A.A., A.C.A.

"Receivers and Managers," by Mr. Stanley Blythen, F.S.A.A., F.C.A.

"Income Tax Practice and Treatment of Losses," by Mr. C. F. Carlisle, A.S.A.A.

"Amalgamations and Reconstructions," by Mr. H. A. R. J. Wilson, F.S.A.A., F.C.A.

"Bankruptcy," by Mr. C. Allison Sales, LL.B., F.S.A.A.

The annual dinner was held at Nottingham on January 22nd, 1932, Mr. Fred A. Prior, F.S.A.A., occupying the chair.

The Secretary attended the annual meeting and Conference of Representatives of District Societies in London.

LIBRARY.

Additions have been made to the library, which is in constant use, and a new catalogue was issued during the year.

BENEVOLENT FUND.

The Committee desires to draw the attention of members to the needs of the Benevolent Fund maintained by the Parent Society, and asks all members to support it.

COMMITTEE.

The retiring members of the Committee are Mr. T. Broadley, Mr. H. R. Horne, Mr. C. J. White and Mr. H. Harris, of whom the first three offer themselves for re-election.

AUDITORS.

The retiring auditors are Mr. Walter Clayton and Mr. Harold T. Hooley, who, being eligible, offer themselves for re-election.

EXAMINATIONS.

Seven students were successful in the Final examination of the Parent Society and nine in the Intermediate. The Committee tenders its congratulations to the candidates.

YORKSHIRE.

The thirty-eighth annual general meeting was held on June 28th, at the Hotel Metropole, Leeds, under the chairmanship of Mr. Wm. Tate, F.S.A.A., the President of the Society. There was a good attendance of members, both senior and students, and the following Officers and

Committee were elected for the year 1932-33 :—President, Mr. T. Revell, F.S.A.A.; Senior Vice-President, Mr. T. Hayes, F.S.A.A.; Committee, Mr. G. Astle, Mr. J. W. Carter, Mr. O. Coope, Mr. A. France, Mr. W. Gaunt, Mr. T. Hayes, Mr. Fredk. Holliday, Mr. E. B. Shaw, and Mr. Wm. Walker; Hon. Auditor, Mr. T. Coombs, F.S.A.A.; Hon. Librarian, Mr. T. W. Dresser, F.S.A.A.; Hon. Treasurer, Mr. Alfred Walton, F.S.A.A., F.C.A.; Hon. Secretary, Mr. T. W. Dresser, F.S.A.A.

The newly-elected President, Mr. T. Revell, F.S.A.A., on receiving the Presidential Badge from the retiring President, Mr. Wm. Tate, F.S.A.A., thanked the members for his election.

Incorporated Accountants' Golfing Society.

The summer meeting of the society was held at the R.A.C. course, Epsom, on June 30th, and was attended by 25 members and guests. The weather conditions were bad, rain and a high wind prevailing all the morning.

The Society's Challenge Cup was competed for by the sixteen members present and was won by Mr. B. Barnes with the very good score of 95−22=73. Mr. L. Jordan was runner-up with 90−14=76.

The competition for the Nicholson Trophy was also completed. This was won by Mr. L. Jordan with scores of 94−14=80, and 90−14=76, total 156; the second prize was won by Mr. B. L. Clarke-Lens with an aggregate of 163.

The autumn meeting of the society will be held on September 29th at Coombe Hill Golf Club, and it is hoped that there will be a good attendance of members and their friends. This meeting is the last of the season, and the Captain and Secretaries look forward to a successful gathering.

Scottish Notes.

(FROM OUR CORRESPONDENT.)

Incorporated Accountants' Golf Club.

Several matches have taken place during the season. At Kirkintilloch on May 27th the results were: Mr. Ian Hewat (17), 63; Mr. M. B. Campbell (13), 68; Mr. A. G. M. Phillips (7), 74; Mr. J. C. McMurray (18), 74; Mr. H. McKechnie (24), 74. At Helensburgh on July 2nd the results were: Mr. Robert Fraser and Mr. C. W. Vance, tie; semi-finalists, Mr. Ina Hewat *v.* Mr. H. McKechnie; Mr. M. B. Campbell *v.* Mr. J. C. McMurray or Mr. James A. Scott. The next competition will be held at Balfron on July 30th.

Scottish Bankers.

At the fifty-seventh annual meeting of the Institute of Bankers in Scotland held recently, the chairman, Mr. George J. Scott, Treasurer of the Bank of Scotland, drew attention to the increase in recent decades of the membership of the Institute. In 1900 the total roll was 1,164. In 1910 it had increased to 2,283, in 1920 the total was 2,737, while in 1932 the total was 5,929. Mr. Scott emphasised the importance of the younger members preparing themselves by study to be able to deal with the ever-increasing problems of the financial and industrial world.

De-Rating—A Water Assessment.

The First Division of the Court of Session gave judgment last month in a special case for the Wemyss and District Water Trustees and the Wemyss Estate Trustees. The substantial question in the case was whether certain agricultural lands and heritages owned by the Estates Trustees in the Wemyss Water District were de-rateable in respect of the Wemyss District Water Assessment. The Division said they were.

The Lord President said that neither the agricultural lands nor the wayleaves received any supply of water from the Wemyss district undertaking, nor were any of them within a hundred yards of any of the undertaker's pipes. Under the Local Government Act water rates were de-rateable, but they were not de-rateable if the water rate was levied as a domestic water rate. A peculiarity of the Wemyss Order was that it established only one water rate, but it discriminated with regard to properties within the district as to the incidence of that rate. To begin with, the rate seemed to be universally applicable to all lands and heritages in the district, but when they read on they found a proviso which said that houses, railway stations, and buildings (which included any industrial or commercial building) would not be liable to have a water assessment levied on them except and unless a water supply was introduced into them or was brought so near the door as a hundred yards. The inclusion of premises within a hundred yards in the general class of buildings into which water was actually brought was not a distinction which really made any substantial difference. In this case they were dealing with properties which were not houses or railway stations or buildings, but which were simply liable, without any exception and without any condition, under the terms of the Order, to the Wemyss water assessment. If that were so, then it seemed quite clear that their Lordships should answer the question of law to the effect that the water assessment levied and imposed on the second parties in respect of the lands and heritages fell to be levied and assessed on the rateable value as ascertained after allowing the deductions provided by the Local Government (Scotland) Act, 1929.

Hire-Purchase in Scotland.

The Hire Purchase and Small Debt (Scotland) Act, 1932, has received the Royal Assent and is now in operation. In recent years the expression hire-purchase agreement in the legal profession has generally been taken to mean an agreement to hire with an option to purchase, but the term has also been loosely applied to contracts which were agreements to purchase by instalments.

Under the old law grave abuses had crept into the operation of the law for enforcing delivery of corporeal moveables by imprisonment. Under the new Act the procedure is considerably modified, and very wide discretion and powers are given to the Sheriff, so that it is entirely in the discretion of the Sheriff whether it is a case for imprisonment or not. Where no fraudulent intent has been proved and the hirer holds on to the article because he has paid up a substantial proportion of the price the Sheriff may recall the decree for delivery and substitute a decree for the balance, probably a small sum, which may still be due.

Court Fees—New Scale.

The Lords of Council and Session have repealed the Act of Sederunt of July 20th, 1920, by which it was provided that fees (as apart from outlays) prescribed to be charged for business in the Supreme and Sheriff Courts should be subject to an increase of 33 per cent., and in lieu thereof have passed an Act of Sederunt permitting an increase of 25 per cent.

It may be noted that an increase of 33 per cent. was made to the scale of fees for Scottish local Government audits at or about the same time as the increase was permitted to law costs, but this increase was wholly removed some years ago.

*** *Legal Notes are held over on account of pressure on space.*